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AMENDED IN ASSEMBLY MAY 22, 1998
AMENDED IN ASSEMBLY MAY 4, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2765

**Introduced by Committee on Public Employees, Retirement
and Social Security (Honda (Chair), Migden, Scott, Shelley,
and Wildman)**

February 26, 1998

~~An act to amend Sections 22104, 22117, 22120, 22121, 22132, 22138.6, 22143, 22146, 22147, 22154, 22156, 22161, 22162, 22163, 22165, 22216, 22221, 22222, 22252, 22327, 22450, 22501, 22508, 22515, 22601.5, 22602, 22604, 22653, 22664, 22705, 22706, 22711, 22713, 22714, 22955, 23801, 23805, 23851, 23880, 24001, 24101, 24214, 24216, 24216.5, 24505, 24609, 24700, 24701, 24702, 26113, 26127, 26133, 26301, 26302, 26400, 26401, 26502, 26504, 26507, 26807, 26906, 27410, 27411, 28100, 44929, and 87488 of, to add~~
An act to amend Sections 22002, 22117, 22120, 22121, 22132, 22138.6, 22143, 22146, 22146.5, 22147, 22151, 22154, 22156, 22161, 22162, 22163, 22165, 22170, 22201, 22207, 22212, 22216, 22222, 22223, 22224, 22225, 22250, 22251, 22252, 22253, 22302, 22303.5, 22305, 22306, 22308, 22313, 22315, 22316, 22317, 22317.5, 22327, 22450, 22354, 22500, 22501, 22508, 22508.5, 22513, 22515, 22516, 22601.5, 22602, 22604, 22650, 22651, 22652, 22653, 22655, 22657, 22659, 22660, 22661, 22662, 22663, 22664, 22665, 22700, 22703, 22705, 22706, 22708, 22709, 22710, 22711, 22712, 22712.5, 22713, 22714, 22715, 22716, 22718, 22721, 22800, 22802, 22805, 22806,

22807, 22808, 22809, 22810, 22821, 22823, 22850, 22851, 22852, 22853, 22854, 22855, 22856, 22900, 22901, 22902, 22903, 22904, 22906, 22907, 22950, 22951, 22951.5, 22952, 22954, 22956, 23003, 23005, 23006, 23101, 23102, 23103, 23104, 23106, 23107, 23200, 23202, 23203, 23300, 23301, 23302, 23303, 23304, 23700, 23800, 23801, 23805, 23850, 23851, 23880, 23881, 24001, 24001.5, 24002, 24003, 24004, 24005, 24006, 24010, 24011, 24013, 24014, 24015, 24016, 24017, 24018, 24100, 24101, 24101.5, 24102, 24103, 24104, 24105, 24106, 24107, 24108, 24109, 24110, 24111, 24112, 24113, 24114, 24116, 24117, 24118, 24119, 24203, 24204, 24205, 24206, 24207, 24208, 24209, 24210, 24211, 24212, 24213, 24214, 24215, 24216, 24216.5, 24217, 24301, 24308, 24309, 24311, 24400, 24417, 24505, 24600, 24603, 24604, 24605, 24606, 24607, 24608, 24609, 24610, 24612, 24613, 24615, 24617, 24618, 24619, 24700, 24701, 24702, 24703, 24704, 24750, 24751, 24950, 24951, 25000, 26001, 26002, 26102, 26113, 26117, 26119, 26120, 26121, 26123, 26124, 26125, 26126, 26127, 26131, 26132, 26133, 26136, 26138, 26139, 26143, 26144, 26208, 26210, 26211, 26212, 26213, 26216, 26301, 26302, 26303, 26305, 26306, 26400, 26401, 26500, 26502, 26504, 26507, 26604, 26606, 26607, 26800, 26802, 26803, 26804, 26805, 26806, 26807, 26809, 26810, 26811, 26900, 26901, 26902, 26903, 26905, 26906, 26908, 26911, 27000, 27001, 27003, 27006, 27007, 27008, 27100, 27101, 27200, 27201, 27202, 27203, 27204, 27205, 27207, 27300, 27302, 27303, 27400, 27403, 27404, 27406, 27407, 27410, 27411, 28000, 28001, 28002, 28004, 28005, 28100, 44929, and 87488 of, to add Sections 22502, 22503, 22504, 22705.5, and 26301.5 to, to add and repeal Section 24216.8 of, and to repeal Sections 22175, 22358, and 22600 of, the Education Code, to amend Section 2610 of the Family Code, and to amend Sections 3543.2, 22009.1, 22208, and 22302 of, and to amend and repeal Sections 22009.03 and 22156 of, the Government Code, relating to the State Teachers' Retirement System.

LEGISLATIVE COUNSEL'S DIGEST

AB 2765, as amended, Committee on Public Employees, Retirement and Social Security. State Teachers' Retirement System: generally.

(1) The State Teachers' Retirement Law prescribes the rights and benefits of members of the State Teachers' Retirement System.

This bill would make technical, nonsubstantive changes in various provisions of that law.

(2) Existing law defines the term regular interest for purposes of various calculations and charges.

This bill would revise that term and would require the board to annually adopt that rate.

(3) Existing law requires the system's governing board upon the recommendation of the actuary, to adopt mortality and other tables and interest rates.

This bill would instead require the board to adopt certain information and would delete the actuary recommendation requirement.

(4) Existing law authorizes the governing board of a school district or community college district or a county office of education to provide, that an additional 2 years of service be credited to members who retire. That authority expires on January 1, 1999.

This bill would extend that authority to January 1, 2004.

(5) Existing law limits postretirement school employment.

This bill would permit retired members to be employed by school districts to meet the objectives of the Class Size Reduction Program.

(6) Existing law requires a quarterly report on assets to be submitted to the Legislature.

This bill would delete that requirement.

(7) Existing law authorizes assessment of penalties against employers for late reports or unacceptable forms of not less than \$500.

This bill would delete that limitation.

(8) Existing law provides that the employee contribution rate to the State Teacher's Retirement System Cash Balance Plan shall not exceed the employer contribution rate.

This bill would provide that the employee rate may exceed the employer rate but that the employer contribution vote may not be less than 4%.

(9) Existing law authorizes school governing boards to encourage retirements by providing additional service credit

and provides until July 1, 2000, that certain types of postretirement school employment is exempted from postretirement school employment limitations.

This bill would extend that exemption to July 1, 2003.

(10) Pursuant to existing law, the Board of Administration of the Public Employees' Retirement System administers an agreement with the federal government for social security coverage of employees of the state and the political subdivisions thereof which contract for coverage. The existing law authorizes each school district, from July 1, 1990, to July 1, 1993, and the State Teachers' Retirement System, on and after July 1, 1993, to apply to the Board of Administration of the Public Employees' Retirement System for elections among their respective certificated employees who are members of the State Teachers' Retirement System for the election of Medicare coverage of those certificated employees who elect it. The existing law also makes certain of these provisions inoperative on July 1, 1999, and repeals them as of January 1, 2000.

This bill would extend the repeal date of certain of these provisions from January 1, 2000, to January 1, 2005.

(11) This bill would also provide that its amendments to Sections 22601.5, 22602, 22604, 26301, 26401, 26504, 27410, and 22601.5 of the Education Code shall not become operative, and shall be repealed on January 1, 1999, if SB 2085 of the 1997–98 Regular Session is enacted prior to this bill and amends those sections.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 22104 of the Education Code is~~
 2 ~~amended to read:~~
 3 ~~22104. "Actuarial equivalent" means an allowance of~~
 4 ~~equal value when computed upon the basis of the tables~~
 5 ~~and interest rates that are adopted by the board as a plan~~
 6 ~~amendment with respect to the Defined Benefit~~
 7 ~~Program.~~

1 SECTION 1. Section 22002 of the Education Code is
2 amended to read:

3 22002. The Legislature recognizes that the assets of
4 the State Teachers' Retirement ~~System Plan~~ with respect
5 to the Defined Benefit Program are insufficient to meet
6 the obligations of that ~~system~~ program already accrued or
7 to accrue in the future ~~in~~ with respect to service credited
8 to members of that ~~system~~ program prior to July 1, 1972.
9 Therefore, the Legislature declares the following policies
10 ~~in~~ with respect to the financing of the Defined Benefit
11 Program of the State Teachers' Retirement ~~System~~ Plan:

12 (a) Members shall contribute a percentage of
13 creditable compensation, unless otherwise specified in
14 this part.

15 (b) Employers shall contribute a percentage of the
16 total creditable compensation on which member
17 contributions are based.

18 (c) The state shall contribute a sum certain for a given
19 number of years for the purpose of payment of benefits
20 under this part.

21 SEC. 2. Section 22117 of the Education Code is
22 amended to read:

23 22117. "Contribution rate for additional service
24 credit" means the contribution rate adopted by the board
25 as a plan amendment with respect to the Defined Benefit
26 Program for the purchase of service credit. This rate shall
27 be based upon the most recent valuation of the plan with
28 respect to the Defined Benefit Program and increased to
29 include any subsequently required contribution rates
30 designated for funding subsequent allowance increases.

31 SEC. 3. Section 22120 of the Education Code is
32 amended to read:

33 22120. "Credited interest" means interest that is
34 credited to active members' and inactive members',
35 accumulated retirement contributions, and accumulated
36 annuity deposit contributions at a rate set annually by the
37 board as a plan amendment with respect to the Defined
38 Benefit Program.

39 SEC. 4. Section 22121 of the Education Code is
40 amended to read:

1 22121. “Credited service” means service for which
2 the required contributions have been paid.

3 SEC. 5. Section 22132 of the Education Code is
4 amended to read:

5 22132. “Employed” or “employment” means
6 employment to perform creditable service subject to
7 coverage by the State Teachers’ Retirement Defined
8 Benefit Program, except as otherwise specifically
9 provided under this part.

10 SEC. 6. Section 22138.6 of the Education Code is
11 amended to read:

12 22138.6. “Full-time equivalent” means the days or
13 hours of creditable service that a person who is employed
14 on a part-time basis would be required to perform in a
15 school year if he or she were employed full time in that
16 position.

17 SEC. 6.5. Section 22143 of the Education Code is
18 amended to read:

19 22143. “Investment manager” and “investment
20 adviser” mean any person, firm, or custodian referred to
21 in Section 22359, either appointed by or under contract
22 with the board to engage in investment transactions or to
23 manage or advise in the management of the assets of the
24 Teachers’ Retirement Fund with respect to the Defined
25 Benefit Program under this part and the Cash Balance
26 Benefit Program under Part 14 (commencing with
27 Section 26000).

28 SEC. 7. Section 22146 of the Education Code is
29 amended to read:

30 22146. “Member” means any person, unless excluded
31 under other provisions of this part, who has performed
32 creditable service as defined in Section 22119.5 and has
33 earned creditable compensation for that service and has
34 not received a refund for that service *and, as a result, is*
35 *subject to the Defined Benefit Program.* A member’s
36 rights and obligations under this part *with respect to the*
37 *Defined Benefit Program* shall be determined by the
38 applicability of subdivision (a), (b), (c), or (d), and
39 subject to any applicable exceptions under other
40 provisions of this part.

(a) An active member is a member who is not retired or disabled and who earns creditable compensation during the school year.

(b) An inactive member is a member who is not retired or disabled and who, by the pay period ending June 30, has not earned creditable compensation during the school year.

(c) A disabled member is a member to whom a disability allowance is payable under Chapter 25 (commencing with Section 24001).

(d) A retired member is a member who has terminated employment and has retired for service under the provisions of Chapter 27 (commencing with Section 24201), or has retired for disability under the provisions of Chapter 26 (commencing with Section 24100) or retired for service or disability under the provisions of Chapter 21 (commencing with Section 23400), and to whom a retirement allowance is therefore payable.

SEC. 8. *Section 22146.5 of the Education Code is amended to read:*

22146.5. "Membership" means membership in the Defined Benefit ~~Plan~~ Program, except as otherwise specifically provided in this part.

SEC. 9. *Section 22147 of the Education Code is amended to read:*

22147. (a) "Month" means 20 working days or four weeks of five working days each, including legal holidays, with respect to the computation and crediting of service.

(b) "Month," for all other purposes, means a period commencing on any day of a calendar month and extending through the day preceding the corresponding day of the succeeding calendar month, if there is any such corresponding day, and if not, through the last day of the succeeding calendar month.

~~SEC. 9.~~

SEC. 10. *Section 22151 of the Education Code is amended to read:*

22151. "Overtime" means the aggregate service performed as a member of the ~~system~~ Defined Benefit

1 *Program* in excess of the hours of work considered normal
2 for employees on a full-time basis.

3 *SEC. 11.* Section 22154 of the Education Code is
4 amended to read:

5 22154. “Pay period” means a payroll period of not less
6 than four weeks or more than one calendar month.

7 ~~SEC. 10.~~

8 *SEC. 12.* Section 22156 of the Education Code is
9 amended to read:

10 22156. “Plan vesting” means the right of the member
11 upon completion of the minimum number of required
12 years of credited service ~~required by this part~~ *provided*
13 *in the Defined Benefit Program* to entitle the member or
14 his or her beneficiary to a monthly retirement allowance,
15 disability allowance, survivor benefit allowance, family
16 allowance, or death benefit at a future date, prior to the
17 completion of which the member upon resignation from
18 service is entitled only to a refund of his or her
19 accumulated retirement contributions as provided in this
20 part.

21 ~~SEC. 10.5.~~

22 *SEC. 13.* Section 22161 of the Education Code is
23 amended to read:

24 22161. “Public school” means any day or evening
25 elementary school, and any day and evening secondary
26 school, community college, technical school,
27 kindergarten school, and prekindergarten school
28 established by the Legislature, or by municipal or district
29 authority.

30 ~~SEC. 11.~~

31 *SEC. 14.* Section 22162 of the Education Code is
32 amended to read:

33 22162. “Regular interest”, with respect to the Defined
34 Benefit Program, is interest that is compounded annually
35 based upon the annual equivalent of the prior year’s
36 average yield to maturity on the investment grade
37 fixed-income securities with respect to the Defined
38 Benefit Program. The regular interest rate shall be
39 adopted annually by the board as a plan amendment.

40 ~~SEC. 12.~~

1 *SEC. 15.* Section 22163 of the Education Code is
2 amended to read:

3 22163. “Reinstatement” means the terminating of a
4 service or disability retirement allowance and the
5 changing of status from a retired member to an inactive
6 member or an active member.

7 ~~SEC. 13.~~

8 *SEC. 16.* Section 22165 of the Education Code is
9 amended to read:

10 22165. “Retirement” means a change in status from
11 an inactive member or an active member to a retired
12 member.

13 ~~SEC. 14.~~

14 *SEC. 17.* Section 22170 of the Education Code is
15 amended to read:

16 22170. “Service” means service performed for
17 compensation in a position ~~requiring membership in~~
18 ~~subject to coverage under the system~~ *Defined Benefit*
19 *Program*, except as otherwise specifically provided in this
20 part.

21 *SEC. 18.* Section 22175 of the Education Code is
22 repealed.

23 ~~SEC. 15.~~

24 *SEC. 19.* Section 22201 of the Education Code is
25 amended to read:

26 22201. (a) The board shall set policy and shall have
27 the sole power and authority to hear and determine all
28 facts pertaining to application for benefits under the plan
29 or any matters pertaining to ~~the~~ administration of the
30 *plan and the system*.

31 (b) The board shall meet at least once every calendar
32 quarter at such times as it may determine. The meetings
33 shall be presided over by the chairperson. In the event of
34 the chairperson’s absence from a meeting the vice
35 chairperson shall act as presiding officer and perform all
36 other duties of the chairperson.

37 *SEC. 20.* Section 22207 of the Education Code is
38 amended to read:

39 22207. The board shall perform any other acts
40 necessary for the administration of the system and the

1 plan in carrying into effect the provisions of this part *and*
2 *Part 14 (commencing with Section 26000).*

3 *SEC. 21. Section 22212 of the Education Code is*
4 *amended to read:*

5 22212. The board shall appoint such employees as are
6 necessary to administer the *plan and the* system.

7 *SEC. 22. Section 22216 of the Education Code is*
8 *amended to read:*

9 22216. (a) The board shall annually adopt as a plan
10 amendment with respect to the Defined Benefit
11 Program the rate of credited interest to be credited to
12 members' accumulated retirement contributions for
13 service performed after June 30, 1935, and the
14 accumulated annuity deposit contributions excluding all
15 accumulated contributions while being paid as
16 ~~allowances under Sections 23804, 24006, and 24007~~
17 *disability allowances, family allowances, and retirement*
18 *allowances.*

19 (b) The board shall credit interest to all other
20 accumulated reserves at the actuarially assumed interest
21 rate.

22 ~~SEC. 16. Section 22221 of the Education Code is~~
23 ~~amended to read:~~

24 ~~22221. The board as a plan amendment shall adopt,~~
25 ~~certain information, that shall include, but not be limited~~
26 ~~to, actuarial assumptions, rates, factors, and tables that are~~
27 ~~necessary to administer the plan and make any~~
28 ~~determination or calculation necessary to carry out this~~
29 ~~part.~~

30 ~~SEC. 17.~~

31 *SEC. 23. Section 22222 of the Education Code is*
32 *amended to read:*

33 22222. The board may adjust the amounts of the death
34 payments based on changes in the All Urban California
35 Consumer Price Index, and shall adopt as a plan
36 amendment with respect to the Defined Benefit
37 Program any adjusted amount, provided that the most
38 recent actuarial valuation report indicates that the
39 adjustment would not increase the normal cost.

40 ~~SEC. 18.~~

1 *SEC. 24. Section 22223 of the Education Code is*
2 *amended to read:*

3 22223. The members of the board who are not
4 members of the Defined Benefit ~~Plan~~ *Program* or
5 participants of the Cash Balance ~~Plan~~ *Benefit Program*
6 and who are appointed by the Governor pursuant to
7 Section 22200 shall receive one hundred dollars (\$100) for
8 every day of actual attendance at meetings of the board
9 or any meeting of any committee of the board of which
10 the person is a member, and that is conducted for the
11 purpose of carrying out the powers and duties of the
12 board, together with their necessary traveling expenses
13 incurred in connection with performance of their official
14 duties.

15 *SEC. 25. Section 22224 of the Education Code is*
16 *amended to read:*

17 22224. Members of the Defined Benefit ~~Plan~~ *Program*
18 and participants of the Cash Balance ~~Plan~~ *Benefit*
19 *Program*, who are either appointed to the board by the
20 Governor pursuant to Section 22200, or who are
21 appointed by the board to serve on a committee or
22 subcommittee of the board or a panel of the system, shall
23 be granted, by his or her employer, sufficient time away
24 from regular duties, without loss of compensation or other
25 benefits to which the person is entitled by reason of
26 employment, to attend meetings of the board or any of its
27 committees or subcommittees of which the person is a
28 member, or to serve as a member of a panel of the system,
29 and to attend to the duties expected to be performed by
30 the person.

31 *SEC. 26. Section 22225 of the Education Code is*
32 *amended to read:*

33 22225. (a) The compensation of the members of the
34 Defined Benefit ~~Plan~~ *Program* and participants of the
35 Cash Balance ~~Plan~~ *Benefit Program* who are appointed
36 to the board, or by the board to a committee or
37 subcommittee, or to a panel of the system, shall not be
38 reduced by his or her employer for any absence from
39 service occasioned by attendance upon the business of
40 the board, pursuant to Section 22224.

1 (b) Each employer that employs *either* a member of
2 the Defined Benefit ~~Plan~~ *Program* or a participant of the
3 Cash Balance ~~Plan~~ *Benefit Program* appointed pursuant
4 to Section 22224 and that employs a person to replace the
5 member or participant during attendance at meetings of
6 the board, its committees or subcommittees, or when
7 serving as a member of a panel of the system, or when
8 carrying out other duties approved by the board, shall be
9 reimbursed from the retirement fund for the cost
10 incurred by employing a replacement.

11 *SEC. 27. Section 22250 of the Education Code is*
12 *amended to read:*

13 22250. The board and its officers and employees of the
14 system shall discharge their duties with respect to the
15 system and the plan solely in the interest of the members
16 and beneficiaries *of the Defined Benefit Program as well*
17 *as the participants and beneficiaries of the Cash Balance*
18 *Benefit Program* as follows:

19 (a) For the exclusive purpose of the following:

20 (1) Providing benefits to members and beneficiaries
21 *of the Defined Benefit Program as well as the participants*
22 *and beneficiaries of the Cash Balance Benefit Program.*

23 (2) Defraying reasonable expenses of administering
24 the plan.

25 (b) With the care, skill, prudence, and diligence under
26 the circumstances then prevailing that a prudent person
27 acting in a like capacity and familiar with those matters
28 would use in the conduct of an enterprise of a like
29 character and with like aims.

30 (c) By diversifying the investments of the ~~system~~ *plan*
31 so as to minimize the risk of large losses, unless under the
32 circumstances it is clearly prudent not to do so.

33 (d) In accordance with the documents and
34 instruments governing *the plan and* the system insofar as
35 those documents and instruments are consistent with this
36 part *and Part 14 (commencing with Section 26000).*

37 *SEC. 28. Section 22251 of the Education Code is*
38 *amended to read:*

39 22251. (a) Except as provided in subdivision (b), the
40 assets of the plan shall never inure to the benefit of an

1 employer and shall be held for the exclusive purposes of
2 providing benefits to members and beneficiaries of the
3 *Defined Benefit Program as well as the participants and*
4 *beneficiaries of the Cash Balance Benefit Program* and
5 defraying reasonable expenses of administering the plan
6 and the system.

7 (b) In the case of a contribution that is made by an
8 employer by a mistake of fact, subdivision (a) shall not
9 prohibit the return of that contribution within one year
10 after the system knows, or should know in the ordinary
11 course of business, that the contribution was made by a
12 mistake of fact.

13 SEC. 29. Section 22252 of the Education Code is
14 amended to read:

15 22252. Except as otherwise provided by law, the
16 board and its officers and employees of the system shall
17 not cause the system to engage in a transaction if they
18 know or should know that the transaction constitutes a
19 direct or indirect:

20 (a) Sale or exchange, or leasing, of any property from
21 the system to a member or beneficiary of the *Defined*
22 *Benefit Program, as well as a participant or beneficiary of*
23 *the Cash Balance Benefit Program*, for less than adequate
24 consideration, or from a member or beneficiary of the
25 *Defined Benefit Program, as well as a participant or*
26 *beneficiary of the Cash Balance Benefit Program*, to the
27 system for more than adequate consideration.

28 (b) Lending of money or other extension of credit
29 from the system to a member or beneficiary of the
30 *Defined Benefit Program, as well as a participant or*
31 *beneficiary of the Cash Balance Benefit Program*,
32 without the receipt of adequate security and a reasonable
33 rate of interest, or from a member or beneficiary of the
34 *Defined Benefit Program, as well as a participant or*
35 *beneficiary of the Cash Balance Benefit Program*, with
36 the provision of excessive security or an unreasonably
37 high rate of interest.

38 (c) Furnishing of goods, services, or facilities from the
39 system to a member or beneficiary of the *Defined Benefit*
40 *Program, as well as a participant or beneficiary of the*

1 *Cash Balance Benefit Program*, for less than adequate
2 consideration, or from a member, or beneficiary of the
3 *Defined Benefit Program*, as well as a participant or
4 beneficiary of the *Cash Balance Benefit Program*, to the
5 system for more than adequate consideration.

6 (d) Transfer to, or use by or for the benefit of, a
7 member or beneficiary of the *Defined Benefit Program*,
8 as well as a participant or beneficiary of the *Cash Balance*
9 *Benefit Program*, of any assets of the plan for less than
10 adequate consideration.

11 (e) Acquisition, on behalf of the system, of any
12 employer security, real property, or loan.

13 ~~SEC. 18.1.~~

14 *SEC. 30. Section 22253 of the Education Code is*
15 *amended to read:*

16 22253. The board and its officers and employees of the
17 system shall not do any of the following:

18 (a) Deal with the assets of the *plan and the* system in
19 their own interest or for their own account.

20 (b) In their individual or in any other capacity, act in
21 any transaction involving the system on behalf of a party,
22 or represent a party, whose interests are adverse to the
23 interests of the plan or the interests of the members and
24 beneficiaries of the *Defined Benefit Program*, as well as
25 participants and beneficiaries of the *Cash Balance*
26 *Benefit Program*.

27 (c) Receive any consideration for their personal
28 account from any party conducting business with the
29 system in connection with a transaction involving the
30 assets of the plan.

31 *SEC. 31. Section 22302 of the Education Code is*
32 *amended to read:*

33 22302. (a) The board shall establish an ombudsman
34 position to serve as an advocate for the members of the
35 ~~plan~~ *Defined Benefit Program and participants of the*
36 *Cash Balance Benefit Program*. The duties of the
37 ombudsman position shall include reviewing and making
38 recommendations to the chief executive officer
39 regarding complaints by school employees, members,

1 employee organizations, the Legislature, or the public
2 regarding actions of the employees of the system.

3 (b) It is the intent of the Legislature that the salary of
4 the position of ombudsman be offset, as much as possible,
5 through savings realized from a reduction in interest
6 payments on delinquent benefits to members, and
7 through a more efficient and improved public relations
8 program.

9 *SEC. 32. Section 22303.5 of the Education Code is*
10 *amended to read:*

11 22303.5. (a) Notwithstanding any other provision of
12 law, the board shall offer a midcareer retirement
13 information program for the benefit of all members.

14 (b) In implementing this section, the board shall
15 develop plans for the development and delivery of
16 information to enhance awareness of the features; *and*
17 *benefits of the Defined Benefit Program*, and services of
18 the system, federal Social Security Act programs and
19 benefits as they apply to members, and awareness of
20 personal planning responsibilities. This information shall
21 be provided to assist members in understanding the
22 importance of financial, legal, estate, and personal
23 planning, and how choices and options offered by the
24 system may impact retirement.

25 (c) The board, at a public meeting, may assess a
26 participation fee for the recovery of all startup and
27 ongoing expenses of the midcareer information program.

28 *SEC. 33. Section 22305 of the Education Code is*
29 *amended to read:*

30 22305. Any rules and regulations adopted by the
31 board for the purpose of the administration of this part
32 *and Part 14 (commencing with Section 26000)*, and not
33 inconsistent with this part *and Part 14 (commencing with*
34 *Section 26000)*, have the force and effect of law.

35 *SEC. 34. Section 22306 of the Education Code is*
36 *amended to read:*

37 22306. (a) Information filed with the system by a
38 member or beneficiary *of the Defined Benefit Program*
39 *and by a participant or beneficiary of the Cash Balance*
40 *Benefit Program* is confidential and shall be used by the

1 system for the sole purpose of carrying into effect the
2 provisions of this part. No official or employee of the
3 system who has access to the individual records of a
4 member, *participant*, or beneficiary shall divulge any
5 confidential information concerning those records to any
6 person except in the following instances:

7 (1) To the member, *participant* or beneficiary to
8 whom the information relates.

9 (2) To the authorized representative of the member,
10 *participant* or beneficiary.

11 (3) To the governing board of the member's *or*
12 *participant's* current or former employer.

13 (4) To any department, agency, or political
14 subdivision of this state.

15 (5) To other individuals as necessary to locate a person
16 to whom a benefit may be payable.

17 (b) Information filed with the system in a beneficiary
18 designation form may be released after the death of the
19 member *or participant* to those persons who may provide
20 information necessary for the distribution of benefits.

21 (c) The information is not open to inspection by
22 anyone except the board and its officers and employees
23 of the system, and any person authorized by the
24 Legislature to make inspections.

25 *SEC. 35. Section 22308 of the Education Code is*
26 *amended to read:*

27 22308. (a) Subject to subdivision (d), the board may,
28 in its discretion and upon any terms it deems just, correct
29 the errors or omissions of any member ~~or beneficiary,~~
30 ~~provided—that~~ *beneficiary of the Defined Benefit*
31 *Program, and of any participant or beneficiary of the*
32 *Cash Balance Benefit Program, if* all of the following facts
33 exist:

34 (1) The error or omission was the result of mistake,
35 inadvertence, surprise, or excusable neglect, as each of
36 those terms is used in Section 473 of the Code of Civil
37 Procedure.

38 (2) The correction will not provide the party seeking
39 correction with a status, right, or obligation not otherwise
40 available under this part.

1 (b) Failure by a member, *participant* or beneficiary to
2 make the inquiry that would be made by a reasonable
3 person in like or similar circumstances does not constitute
4 an “error or omission” correctable under this section.

5 (c) Subject to subdivision (d), the board may correct
6 all actions taken as a result of errors or omissions of the
7 employer or this system.

8 (d) The duty and power of the board to correct errors
9 and omissions, as provided in this section, shall terminate
10 upon the expiration of obligations of the board, system,
11 and plan to the party seeking correction of the error or
12 omission, as those obligations are defined by Section
13 22008.

14 (e) Corrections of errors or omissions pursuant to this
15 section shall be such that the status, rights, and obligations
16 of all parties described in subdivisions (a), (b), and (c)
17 are adjusted to be the same that they would have been if
18 the act that was taken or would have been taken, but for
19 the error or omission, was taken at the proper time.
20 However, notwithstanding any of the other provisions of
21 this section, corrections made pursuant to this section
22 shall adjust the status, rights, and obligations of all parties
23 described in subdivisions (a), (b), and (c) as of the time
24 that the correction actually takes place if the board finds
25 any of the following:

26 (1) That the correction cannot be performed in a
27 retroactive manner.

28 (2) That even if the correction can be performed in a
29 retroactive manner, the status, rights, and obligations of
30 all of the parties described in subdivisions (a), (b), and
31 (c) cannot be adjusted to be the same as they would have
32 been if the error or omission had not occurred.

33 *SEC. 36. Section 22313 of the Education Code is*
34 *amended to read:*

35 22313. (a) No adjustment shall be included in new
36 rates of contribution adopted by the board on the basis of
37 an investigation, valuation, and determination or because
38 of amendment to the Teachers’ Retirement Law *with*
39 *respect to the Defined Benefit Program*, for time prior to

1 the effective date of the adoption or amendment, as the
2 case may be.

3 (b) No action of the board, other than correction of
4 errors in calculating the allowance or annuity at the time
5 of retirement, disability or death of a member shall
6 change the allowance or annuity payable to a retired
7 member or beneficiary prior to the date the action is
8 taken.

9 *SEC. 37. Section 22315 of the Education Code is*
10 *amended to read:*

11 22315. (a) The Legislature hereby finds and declares
12 that it is the intent of the Legislature in enacting this
13 section and Section 22316 that members of the ~~plan~~
14 *Defined Benefit Program* not be adversely impacted, to
15 the extent deemed reasonable, by the application of
16 Section 415 of the Internal Revenue Code of 1986 (26
17 U.S.C.A. Sec. 415).

18 (b) The system shall work closely with teacher
19 organizations to develop a supplemental plan that, to the
20 extent deemed reasonable and without violating the
21 intent and purposes of Section 415 of the Internal
22 Revenue Code of 1986, maintains the future retirement
23 benefits of the members and the fiscal integrity of the
24 retirement fund. The supplemental plan should not result
25 in any additional liability to the employer.

26 (c) The system shall also monitor the benefits of its
27 members and notify affected individuals of their options,
28 if deemed appropriate by the system.

29 *SEC. 38. Section 22316 of the Education Code is*
30 *amended to read:*

31 22316. (a) Notwithstanding any other provision of
32 this part, the benefits payable to any person who becomes
33 a member *of the Defined Benefit Program* on or after
34 January 1, 1990, shall be subject to the limitations set forth
35 in Section 415 of the Internal Revenue Code of 1986
36 without regard to Section 415(b)(2)(F) of the Internal
37 Revenue Code of 1986.

38 (b) Notwithstanding any other provision of law, the
39 benefits payable *under this part* to any person who
40 became a member *of the Defined Benefit Program* prior

1 to January 1, 1990, shall not be less than the accrued
2 benefit of the member, determined without regard to any
3 amendment to the plan *with respect to the Defined*
4 *Benefit Program* made after October 14, 1987, and as
5 provided in Section 415(b)(10) of the Internal Revenue
6 Code of 1986.

7 (c) The board shall provide to each employer a notice
8 of the content and effect of subdivision (a) for
9 distribution to each person who, for the first time,
10 becomes a member *of the Defined Benefit Program* on
11 or after January 1, 1990.

12 SEC. 39. Section 22317 of the Education Code is
13 amended to read:

14 22317. (a) With respect to members *of the Defined*
15 *Benefit Program* with membership effective dates of
16 December 31, 1989, and earlier, benefit enhancements
17 due to a plan amendment enacted after October 14, 1987,
18 *with respect to the Defined Benefit Program*, are subject
19 to the limitations imposed by Section 415 of the Internal
20 Revenue Code of 1986 (26 U.S.C.A. Sec. 415).

21 (b) With respect to members *of the Defined Benefit*
22 *Program* with membership effective dates of January 1,
23 1990, and later, retirement benefits *under this part*,
24 including enhancements due to a plan amendment *with*
25 *respect to the Defined Benefit Program*, are subject to
26 the limitations imposed by Section 415 of the Internal
27 Revenue Code of 1986.

28 (c) With respect to members described in subdivision
29 (a) or (b), or beneficiaries of those persons, a change in
30 the benefit structure of the plan *under this part* pursuant
31 to a plan amendment *with respect to the Defined Benefit*
32 *Program* shall not be subject to Section 415(b)(5)(D) of
33 the Internal Revenue Code of 1986 in the case of all plan
34 amendments enacted before, on, or after August 3, 1992,
35 *with respect to the Defined Benefit Program*.

36 SEC. 40. Section 22317.5 of the Education Code is
37 amended to read:

38 22317.5. The amount of compensation that is taken
39 into account in computing benefits payable *under this*
40 *part* to any person who first becomes a member of ~~this~~

1 ~~system~~ *the Defined Benefit Program* on or after July 1,
2 1996, shall not exceed the annual compensation
3 limitations prescribed by Section 401(a)(17) of Title 26 of
4 the United States Code upon public retirement systems,
5 as that section may be amended from time to time and as
6 that limit may be adjusted by the Commissioner of
7 Internal Revenue for increases in cost of living. The
8 determination of compensation for each 12-month period
9 shall be subject to the annual compensation limit in effect
10 for the calendar year in which the 12-month period
11 begins. In a determination of average annual
12 compensation over more than one 12-month period, the
13 amount of compensation taken into account for each
14 12-month period, shall be subject to the annual
15 compensation limit applicable to that period.

16 Notwithstanding any other provision of this part, no
17 member contribution shall be paid upon any
18 compensation in excess of the annual compensation
19 limitations prescribed by Section 401(a)(17) of Title 26 of
20 the United States Code.

21 *SEC. 41.* Section 22327 of the Education Code is
22 amended to read:

23 22327. Notwithstanding any other provision of law,
24 the Employment Development Department shall
25 disclose to the board information in its possession relating
26 to the earnings of any person who is receiving a disability
27 benefit from the plan. The earnings information shall be
28 released to the board only upon written request from the
29 board specifying that the person is receiving disability
30 benefits from the plan. The request may be made by the
31 chief executive officer of the system or by an employee
32 of the system so authorized and identified by name and
33 title by the chief executive officer in writing. The board
34 shall notify recipients of disability benefits that earnings
35 information shall be obtained from the Employment
36 Development Department upon request by the board.
37 The board shall not release any earnings information
38 received from the Employment Development
39 Department to any person, agency, or other entity. The
40 system shall reimburse the Employment Development

1 Department for all reasonable administrative expenses
2 incurred pursuant to this section.

3 ~~SEC. 18.5.~~

4 *SEC. 42. Section 22354 of the Education Code is*
5 *amended to read:*

6 22354. (a) The board shall, pursuant to the state civil
7 service statutes, either contract with, or establish and fill
8 full-time positions for, investment managers who are
9 experienced and knowledgeable in corporate
10 management issues to monitor each corporation any of
11 whose shares are owned by the ~~system~~ *plan* and to advise
12 the board on the voting of the shares owned by the ~~system~~
13 *plan* and on the responses of the system to merger
14 proposals and tender offers and all other matters
15 pertaining to corporate governance.

16 (b) Notwithstanding Section 13340 of the
17 Government Code, there is hereby continuously
18 appropriated, without regard to fiscal years, from the
19 retirement fund, an amount sufficient to pay all costs
20 arising from this section.

21 *SEC. 43. Section 22358 of the Education Code is*
22 *repealed.*

23 ~~SEC. 18.7.~~

24 *SEC. 44. Section 22450 of the Education Code is*
25 *amended to read:*

26 22450. (a) Each member and beneficiary shall
27 furnish to the board any information affecting his or her
28 status as a member or beneficiary of the Defined Benefit
29 Program as the board requires.

30 (b) A member who has not had any creditable service
31 reported during the prior school year shall provide the
32 system with his or her current mailing address and
33 beneficiary information.

34 ~~SEC. 19.~~

35 *SEC. 45. Section 22500 of the Education Code is*
36 *amended to read:*

37 22500. All persons who were members of the
38 California State Teachers' Retirement System on June 30,
39 1996, are members of the Defined Benefit ~~Plan~~ *Program*
40 *under the plan.*

1 SEC. 46. Section 22501 of the Education Code is
2 amended to read:

3 22501. (a) Any person employed to perform
4 creditable service on a full-time basis who is not already
5 a member of the Defined Benefit Program *under the*
6 *plan* shall become a member as of the first day of
7 employment, unless excluded from membership
8 pursuant to Section 22601.

9 (b) Creditable service in more than one position shall
10 not be aggregated for the purpose of determining
11 mandatory membership under this section.

12 (c) This section shall be deemed to have become
13 operative on July 1, 1996.

14 ~~SEC. 20.~~

15 SEC. 47. Section 22502 is added to the Education
16 Code, to read:

17 22502. (a) Any person employed to perform
18 creditable service on a part-time basis who is not already
19 a member of the Defined Benefit Program shall become
20 a member as of the first day of employment to perform
21 creditable service for 50 percent or more of the full-time
22 equivalent for the position, *unless excluded from*
23 *membership pursuant to Section 22601.*

24 (b) This section shall apply to persons who perform
25 service subject to coverage under this part and to persons
26 who are employed by employers who provide benefits for
27 their employees under Part 14 (commencing with
28 Section 26000).

29 (c) This section shall be deemed to have become
30 operative on July 1, 1996.

31 ~~SEC. 21.~~

32 SEC. 48. Section 22503 is added to the Education
33 Code, to read:

34 22503. (a) Any person employed to perform
35 creditable service as a substitute teacher who is not
36 already a member of the Defined Benefit Program shall
37 become a member as of the first day of the pay period
38 following the pay period in which the person performed
39 100 or more complete days of creditable service during
40 the school year in one school district, community college

1 district, or county superintendent's office, unless
2 excluded from membership pursuant to Section 22601.

3 (b) This section shall not apply to persons employed by
4 employers who provide benefits for their employees
5 under Part 14 (commencing with Section 26000).

6 (c) This section shall be deemed to have become
7 operative on July 1, 1996.

8 ~~SEC. 22.~~

9 SEC. 49. Section 22504 is added to the Education
10 Code, to read:

11 22504. (a) Any person employed on a part-time basis
12 who is not already a member of the Defined Benefit
13 Program shall become a member on the first day of the
14 pay period following the pay period in which the person
15 performed at least 60 hours of creditable service, if
16 employed on an hourly basis, or 10 days of creditable
17 service, if employed on a daily basis, in one school district,
18 community college district, or county superintendent's
19 office, unless excluded from membership pursuant to
20 Section 22601.

21 (b) This section shall not apply to persons employed
22 on a part-time basis by employers who provide benefits
23 for their employees under Part 14 (commencing with
24 Section 26000).

25 (c) This section shall be deemed to have become
26 operative on July 1, 1996.

27 ~~SEC. 23.~~

28 SEC. 50. Section 22508 of the Education Code is
29 amended to read:

30 22508. (a) A member who becomes employed by the
31 same or a different school district, community college
32 district, or a county superintendent to perform ~~duties~~
33 ~~that require~~ service that requires membership in a
34 different public retirement system, may elect to have
35 that service subject to coverage by the Defined Benefit
36 Program of this plan and excluded from coverage by the
37 other public retirement system. The election shall be
38 made in writing on a form prescribed by this system
39 within 60 days from the date of hire in the position
40 requiring membership in the other public retirement

1 system. If that election is made, the service performed for
2 the employer after the date of hire shall be considered
3 creditable service for purposes of this part.

4 (b) A member of the Public Employees' Retirement
5 System who is employed by a school district, community
6 college district, or a county superintendent and who is
7 subsequently employed to perform creditable service
8 subject to coverage by the Defined Benefit Program of
9 the State Teachers' Retirement Plan may elect to have
10 that service subject to coverage by the Public Employees'
11 Retirement System and excluded from coverage by—this
12 plan the Defined Benefit Program. The election shall be
13 made in writing on a form prescribed by this system
14 within 60 days from the date of hire to perform creditable
15 service. If that election is made, creditable service
16 performed for the employer after the date of hire shall be
17 subject to coverage by the Public Employees' Retirement
18 System.

19 ~~SEC. 24.~~

20 SEC. 51. Section 22508.5 of the Education Code is
21 amended to read:

22 22508.5. (a) Any person who is a member of the
23 Defined Benefit Program of the State Teachers'
24 Retirement System plan employed by a community
25 college district who subsequently is employed by the
26 Board of Governors of the California Community
27 Colleges to perform duties that require membership in a
28 different public retirement system, shall be excluded
29 from membership in that different system if he or she
30 elects, in writing, and files that election in the office of the
31 State Teachers' Retirement System within 60 days after
32 the person's entry into the new position, to continue as a
33 member of the State Teachers' Retirement System
34 Defined Benefit Program. Only a person who has
35 achieved plan vesting is eligible to elect to continue as a
36 member of the —State Teachers' Retirement System
37 program.

38 (b) A member of the Public Employees' Retirement
39 System who is employed by the Board of Governors of the
40 California Community Colleges who subsequently is

1 employed by a community college district to perform
2 creditable service subject to coverage by this plan, may
3 elect to have that service subject to coverage by the
4 Public Employees' Retirement System and excluded
5 from coverage by this plan pursuant to Section 20309 of
6 the Government Code.

7 (c) This section shall apply to changes in employment
8 effective on or after January 1, 1998.

9 *SEC. 52. Section 22513 of the Education Code is*
10 *amended to read:*

11 22513. Members of the Defined Benefit Program who
12 elect membership in the Public Employees' Retirement
13 System and have achieved plan vesting according to
14 Section ~~22173~~ 22156 shall retain the vested rights to
15 survivor and disability benefits under this ~~plan~~ part until
16 they qualify for the similar benefits in the Public
17 Employees' Retirement System.

18 *SEC. 53. Section 22515 of the Education Code is*
19 *amended to read:*

20 22515. Persons excluded from membership pursuant
21 to Sections 22601.5, 22602, and 22604 may elect
22 membership in the Defined Benefit Program at any time
23 while employed to perform creditable service subject to
24 coverage under that program. The election shall be in
25 writing on a form prescribed by this system, and shall be
26 filed in the office of this system prior to submission of
27 contributions. The election is irrevocable, and shall
28 remain in effect until the member terminates
29 employment and receives a refund of accumulated
30 retirement contributions. The amendments to this
31 section enacted during the 1995-96 Regular Session shall
32 be deemed to have become operative on July 1, 1996.

33 ~~SEC. 25.~~

34 *SEC. 54. Section 22516 of the Education Code is*
35 *amended to read:*

36 22516. (a) Nothing in this chapter shall be construed
37 or applied to exclude from membership in ~~this plan~~ the
38 Defined Benefit Program any person employed to
39 perform creditable service at a level that requires
40 mandatory membership in ~~this plan~~ the program for

1 which he or she has the right to elect membership in ~~this~~
2 ~~plan~~ *the program* or another retirement system and who
3 elects membership in the other retirement system, or
4 who is employed to perform creditable service at a level
5 that does not require mandatory membership in ~~this plan~~
6 *the Defined Benefit Program*.

7 (b) Service performed after becoming a member of
8 another retirement system shall not be credited to the
9 member under ~~this plan~~ *this part*, nor shall contributions
10 or benefits under this ~~plan~~ *part* be based upon that service
11 or the compensation received by the member during that
12 period of service, except as provided in the definition of
13 “final compensation” contained in Section 22133.

14 SEC. 55. Section 22600 of the Education Code is
15 repealed.

16 ~~SEC. 26.~~

17 SEC. 56. Section 22601.5 of the Education Code is
18 amended to read:

19 22601.5. (a) Any person who is not already a member
20 of the plan who is employed to perform creditable service
21 and whose basis of employment is less than 50 percent of
22 the full-time equivalent for the position is excluded from
23 mandatory membership in the plan.

24 (b) This section shall apply to persons who perform
25 service subject to coverage under this part and to persons
26 who are employed by employers who provide benefits for
27 their employees under Part 14 (commencing with
28 Section 26000).

29 (c) This section shall be deemed to have become
30 operative on July 1, 1996.

31 ~~SEC. 27.~~

32 SEC. 57. Section 22602 of the Education Code is
33 amended to read:

34 22602. (a) Any person who is not already a member
35 of the plan who is employed as a substitute and who
36 performs less than 100 complete days of creditable service
37 in one school district, community college district, or
38 county superintendent’s office during the school year is
39 excluded from mandatory membership in the plan.

(b) This section shall not apply to employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

(c) The amendments to this section enacted during the 1995–96 Regular Session shall be deemed to have become operative on July 1, 1996.

~~SEC. 28.~~

SEC. 58. Section 22604 of the Education Code is amended to read:

22604. (a) Any person who is not already a member of the plan who is employed on a part-time basis, and who performs less than 60 hours of creditable service in a pay period if employed on an hourly basis, or less than 10 days of creditable service in a pay period if employed on a daily basis, in one school district, community college district, or county superintendent’s office is excluded from mandatory membership in the plan.

(b) This section shall not apply to employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

(c) The amendments to this section enacted during the 1995–96 Regular Session shall be deemed to have become operative on July 1, 1996.

~~SEC. 29.~~

SEC. 59. Section 22650 of the Education Code is amended to read:

22650. This chapter establishes the power of a court in a dissolution of marriage or legal separation action with respect to community property rights in accounts with the plan *under this part* and establishes and defines the rights of nonmember spouses in the plan *under this part*.

SEC. 60. Section 22651 of the Education Code is amended to read:

22651. For purposes of this chapter and Section 23300, “nonmember spouse” means the spouse or former spouse who is being or has been awarded a community property interest in the service credit and accumulated retirement contributions or the benefits of a member *under this part*. A nonmember spouse who is awarded a separate account of service credit and accumulated retirement

1 contributions or who receives a retirement allowance
2 *under this part*, or who is awarded an interest in a
3 member's retirement allowance *under this part* is not a
4 member.

5 SEC. 61. Section 22652 of the Education Code is
6 amended to read:

7 22652. (a) Upon the legal separation or dissolution of
8 marriage of a member, the court shall include in the
9 judgment or a court order the date on which the parties
10 separated.

11 (b) The court may order in the judgment or court
12 order that the accumulated retirement contributions and
13 service credit *under this part that are* attributable to
14 periods of service during the marriage be divided into
15 two separate and distinct accounts in the name of the
16 member and the nonmember spouse, respectively. Any
17 service credit or accumulated retirement contributions
18 *under this part* that are not explicitly awarded by the
19 judgment or court order shall be deemed the exclusive
20 property of the member *in the Defined Benefit Program*.

21 (c) The determination of the court of community
22 property rights pursuant to this section shall be consistent
23 with this chapter and shall address the rights of the
24 nonmember spouse, including, but not limited to, the
25 following:

26 (1) The right to a retirement allowance *under this*
27 *part*.

28 (2) The right to a refund of accumulated retirement
29 contributions *under this part*.

30 (3) The right to redeposit accumulated retirement
31 contributions which are eligible for redeposit *under this*
32 *part* by the member under Sections 23200 to 23203,
33 inclusive, and the shares of the member and the
34 nonmember spouse of the eligible redeposit amount.

35 (4) The right to purchase additional service credit
36 *under this part* which is eligible for purchase by the
37 member under Sections 22800 to 22810, inclusive, and the
38 shares of the member and the nonmember spouse of the
39 service credit eligible for purchase.

1 SEC. 62. Section 22653 of the Education Code is
2 amended to read:

3 22653. (a) The nonmember spouse who is awarded a
4 separate account *under this part* pursuant to Section
5 22652 is not a member of the ~~plan~~ *Defined Benefit*
6 *Program* based on that award. The nonmember spouse is
7 entitled only to rights and benefits based on that award
8 explicitly established by this chapter.

9 (b) This section shall not be construed to limit any
10 right arising from the account of a nonmember spouse
11 under this part that exists because the nonmember
12 spouse is or was employed to perform creditable service
13 subject to coverage by the ~~plan~~ *Defined Benefit Program*.

14 ~~SEC. 29.5.~~

15 SEC. 63. Section 22655 of the Education Code is
16 amended to read:

17 22655. (a) Upon the legal separation or dissolution of
18 marriage of a retired member, the court may include in
19 the judgment or court order a determination of the
20 community property rights of the parties in the
21 retirement allowance *under this part* of the retired
22 member consistent with this section. Upon election
23 under subparagraph (B) of paragraph (3) of subdivision
24 (a) of Section 2610 of the Family Code, the court order
25 awarding the nonmember spouse a community property
26 share in the benefits of a retired member shall be
27 consistent with this section.

28 (b) If the court does not award the entire retirement
29 allowance *under this part* to the retired member and the
30 retired member is receiving a retirement allowance that
31 has not been modified pursuant to Section 24300, the
32 court shall require only that the system pay the
33 nonmember spouse, by separate warrant from the plan,
34 his or her community property share of the retirement
35 allowance *under this part* of the retired member.

36 (c) If the court does not award the entire retirement
37 allowance *under this part* to the retired member and the
38 retired member is receiving an allowance which has been
39 actuarially modified pursuant to Section 24300, the court
40 shall order only one of the following:

1 (1) The retired member shall maintain the retirement
2 allowance *under this part* without change.

3 (2) The retired member shall cancel the option under
4 which the retirement allowance is modified *under this*
5 *part* pursuant to Section 24305 and select a new joint and
6 survivor option or a new beneficiary or both, and the
7 system shall pay the nonmember spouse, by separate
8 warrant from the plan, his or her community property
9 share of the retirement allowance *under this part* of the
10 retired member, the option beneficiary, or both.

11 (3) The retired member shall cancel the option under
12 which the retirement allowance is modified *under this*
13 *part* pursuant to Section 24305 and select an unmodified
14 retirement allowance and the system shall pay the
15 nonmember spouse, by separate warrant from the plan,
16 his or her community property share of the retirement
17 allowance of the retired member.

18 (d) If the option beneficiary *under this part*, other
19 than the nonmember spouse, predeceases the retired
20 member, the court shall order the retired member to
21 select a new option beneficiary *under this part* pursuant
22 to Section 24306 and shall order the system to pay the
23 nonmember spouse, by separate warrant from the plan,
24 his or her share of the community property interest in the
25 retirement allowance *under this part* of the retired
26 member or the new option beneficiary, or both.

27 (e) The right of the nonmember spouse to receive his
28 or her community property share of the retirement
29 allowance *under this part* of the retired member under
30 this section shall terminate upon the death of the
31 nonmember spouse. However, the nonmember spouse
32 may designate a beneficiary to receive his or her
33 community property share of the retired member's
34 accumulated retirement contributions *under this part* in
35 the event that accumulated retirement contributions
36 become payable.

37 SEC. 64. Section 22656 of the Education Code is
38 amended to read:

39 22656. No judgment or court order issued pursuant to
40 this chapter is binding on the plan *with respect to the*

1 *Defined Benefit Program* until the plan has been joined
2 as a party to the action and has been served with a
3 certified copy of the judgment or court order.

4 *SEC. 65. Section 22657 of the Education Code is*
5 *amended to read:*

6 22657. (a) The following provisions shall apply to a
7 nonmember spouse as if he or she were a member *under*
8 *this part*: Sections 22107, 22306, 22906, 23802, subdivisions
9 (a) and (b) of Section 24600, 24601, 24602, 24603, 24605,
10 24606, 24607, 24608, 24611, 24612, 24613, 24616, and 24617.

11 (b) Notwithstanding subdivision (a), this section shall
12 not be construed to establish any right for the
13 nonmember spouse *under this part* that is not explicitly
14 established in Sections 22650 to 22655, inclusive, and
15 Sections 22658 to 22665, inclusive.

16 *SEC. 66. Section 22658 of the Education Code is*
17 *amended to read:*

18 22658. (a) A separate account awarded to a
19 nonmember spouse pursuant to Section 22652 shall be
20 administered independently of the member's account.

21 (b) Accumulated contributions, service credit, and
22 final compensation attributable to a separate account of
23 a nonmember spouse *under this part* shall not be
24 combined in any way or for any purpose with the
25 accumulated contributions, service credit, and final
26 compensation of any other separate account of the
27 nonmember spouse.

28 (c) Accumulated contributions, service credit, and
29 final compensation attributable to the separate account
30 of a nonmember spouse shall not be combined in any way
31 or for any purpose with the accumulated contributions,
32 service credit, and final compensation of an account that
33 exists *under this part* because the nonmember spouse is
34 employed or has been employed to perform creditable
35 service subject to coverage ~~by the plan~~ *under the Defined*
36 *Benefit Program*.

37 *SEC. 67. Section 22659 of the Education Code is*
38 *amended to read:*

39 22659. Upon being awarded a separate account or an
40 interest in the retirement allowance of a retired member

1 *under this part*, a nonmember spouse shall provide the
2 system with proof of his or her date of birth, social security
3 number, and any other information requested by the
4 system, in the form and manner requested by the system.

5 *SEC. 68. Section 22660 of the Education Code is*
6 *amended to read:*

7 22660. (a) The nonmember spouse who is awarded a
8 separate account *under this part* shall have the right to
9 designate, pursuant to Sections 23300 to 23304, inclusive,
10 a beneficiary or beneficiaries to receive the accumulated
11 retirement contributions remaining in the separate
12 account of the nonmember spouse on his or her date of
13 death, and any accrued allowance attributable to the
14 separate account which is unpaid on the date of the death
15 of the nonmember spouse *under this part*.

16 (b) This section shall not be construed to provide the
17 nonmember spouse with any right to elect to modify a
18 retirement allowance under Section 24300.

19 *SEC. 69. Section 22661 of the Education Code is*
20 *amended to read:*

21 22661. (a) The nonmember spouse who is awarded a
22 separate account *under this part* shall have the right to a
23 refund of the accumulated retirement contributions in
24 the account of the nonmember spouse *under this part*.

25 (b) The nonmember spouse shall file an application on
26 a form provided by the system to obtain the refund.

27 (c) The refund *under this part* is effective when the
28 system deposits in the United States mail an initial
29 warrant drawn in favor of the nonmember spouse and
30 addressed to the latest address for the nonmember spouse
31 on file in the system. If the nonmember spouse has
32 elected on a form provided by the system to transfer all
33 or a specified portion of the accumulated contributions
34 that are eligible for direct trustee-to-trustee transfer to
35 the trustee of a qualified plan under Section 402 of the
36 Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 402),
37 deposit in the United States mail of a notice that the
38 requested transfer has been made constitutes a return of
39 the nonmember spouse's accumulated contributions.

(d) The nonmember spouse is deemed to have permanently waived all rights and benefits pertaining to the service credit *under this part* and represented by the accumulated retirement contributions when the refund becomes effective.

(e) The nonmember spouse may not cancel a refund *under this part* after the refund is effective.

(f) The nonmember spouse shall have no right to elect to redeposit the refunded accumulated retirement contributions *under this part* after the refund is effective and shall have no right to redeposit under Section 22662 or purchase additional service credit under Section 22663 after the refund becomes effective.

(g) If the total service credit in the separate account of the nonmember spouse *under this part*, including service credit purchased under Sections 22662 and 22663, is less than two and one-half years, the board shall refund the accumulated retirement contributions in the account.

SEC. 70. Section 22662 of the Education Code is amended to read:

22662. The nonmember spouse who is awarded a separate account *under this part* may redeposit accumulated retirement contributions previously refunded to the member in accordance with the determination of the court pursuant to Section 22652.

(a) The nonmember spouse may redeposit *under this part* only those accumulated retirement contributions that were previously refunded to the member and in which the court has determined the nonmember spouse has a community property interest.

(b) The nonmember spouse shall inform the system in writing of his or her intent to redeposit within 180 days after the judgment or court order addressing the redeposit rights of the nonmember spouse is entered. The nonmember spouse shall elect to redeposit on a form provided by the system within 30 days after the system mails an election form and the billing.

(c) If the nonmember spouse elects to redeposit *under this part*, he or she shall repay the accumulated

1 retirement contributions and shall pay regular interest
2 from the date of the refund to the date of payment.

3 (d) An election to redeposit shall be considered an
4 election to repay all accumulated retirement
5 contributions previously refunded *under this part* in
6 which the nonmember spouse has a community property
7 interest. All payments shall be received by the system
8 before the effective date of retirement of the
9 nonmember spouse *under this part*. If any payment due
10 because of the election is not received at the system's
11 office in Sacramento within 120 days of its due date, the
12 election shall be canceled and any payments made under
13 the election shall be returned to the nonmember spouse.

14 (e) The right of the nonmember spouse to redeposit
15 shall be subject to Section 23203.

16 (f) The member shall not have a right to redeposit the
17 share of the nonmember spouse in the previously
18 refunded accumulated retirement contributions *under*
19 *this part* whether or not the nonmember spouse elects to
20 redeposit. However, any ~~previously—refunded~~
21 accumulated retirement contributions *previously*
22 *refunded under this part and* not explicitly awarded to
23 the nonmember spouse *under this part* by the judgment
24 or court order shall be deemed the exclusive property of
25 the member.

26 *SEC. 71. Section 22663 of the Education Code is*
27 *amended to read:*

28 22663. The nonmember spouse who is awarded a
29 separate account *under this part* shall have the right to
30 purchase additional service credit in accordance with the
31 determination of the court pursuant to Section 22652.

32 (a) The nonmember spouse may purchase only the
33 service credit that the court, pursuant to Section 22652,
34 has determined to be the community property interest of
35 the nonmember spouse.

36 (b) The nonmember spouse shall inform the system in
37 writing of his or her intent to purchase additional service
38 credit within 180 days after the date the judgment or
39 court order addressing the right of the nonmember
40 spouse to purchase additional service credit is entered.

1 The nonmember spouse shall elect to purchase additional
2 service credit on a form provided by the system within 30
3 days after the system mails an election form and billing.

4 (c) If the nonmember spouse elects to purchase
5 additional service credit, he or she shall pay, prior to
6 retirement *under this part*, all contributions with respect
7 to the additional service at the contribution rate for
8 additional service credit in effect at the time of election
9 and regular interest from July 1 of the year following the
10 year upon which contributions are based.

11 (1) (A) The nonmember spouse shall purchase
12 additional service credit by paying the required
13 contributions and interest in one lump sum, or in not
14 more than 60 monthly installments, provided that no
15 installment, except the final installment, shall be less than
16 twenty-five dollars (\$25). Regular interest shall be
17 charged on the monthly unpaid balance if the
18 nonmember spouse pays in installments.

19 (B) If any payment due because of the election is not
20 received at the system's office in Sacramento within 120
21 days of its due date, the election shall be canceled and any
22 payments made under the election shall be returned to
23 the nonmember spouse.

24 (2) The contributions shall be based on the member's
25 compensation earnable in the most recent school year
26 during which the member was employed, preceding the
27 date of separation established by the court pursuant to
28 Section 22652.

29 (3) All payments of contributions and interest shall be
30 received by the system before the effective date of the
31 retirement of the nonmember.

32 (d) The nonmember spouse shall not have a right to
33 purchase additional service credit *under this part* after
34 the effective date of a refund of the accumulated
35 retirement contributions in the separate account of the
36 nonmember spouse.

37 (e) The member shall not have a right to purchase the
38 community property interest of the nonmember spouse
39 of additional service credit *under this part* whether or not
40 the nonmember spouse elects to purchase the additional

1 service credit. However, any additional service credit
2 eligible for purchase that is not explicitly awarded to the
3 nonmember spouse by the judgment or court order shall
4 be deemed the exclusive property of the member.

5 *SEC. 72.* Section 22664 of the Education Code is
6 amended to read:

7 22664. The nonmember spouse who is awarded a
8 separate account shall have the right to a service
9 retirement allowance *under this part*.

10 (a) The nonmember spouse shall be eligible to retire
11 for service *under this part* if the following conditions are
12 satisfied:

13 (1) The member had at least five years of credited
14 service during the period of marriage, at least one year of
15 which had been performed subsequent to the most
16 recent refund to the member of accumulated retirement
17 contributions. The credited service may include service
18 credited to the account of the member as of the date of
19 the dissolution or legal separation, previously refunded
20 service, out-of-state service, and permissive service credit
21 which the member is eligible to purchase at the time of
22 the dissolution or legal separation.

23 (2) The nonmember spouse has at least two and
24 one-half years of credited service in his or her separate
25 account.

26 (3) The nonmember spouse has attained the age of 55
27 years or more.

28 (b) A service retirement allowance of a nonmember
29 spouse *under this part* shall become effective upon any
30 date designated by the nonmember spouse, provided:

31 (1) The requirements of subdivision (a) are satisfied.

32 (2) The nonmember spouse has filed an application for
33 service retirement on a form provided by the system,
34 which is executed no earlier than six months before the
35 effective date of the retirement allowance.

36 (3) The effective date is no earlier than the first day of
37 the month in which the application is received at the
38 system's office in Sacramento and the effective date is
39 after the date the judgment *or court order pursuant to*
40 *Section 22652* was entered.



1 (c) Upon service retirement at or over normal
2 retirement age *under this part*, the nonmember spouse
3 shall receive a retirement allowance that shall consist of
4 an annual allowance payable in monthly installments
5 equal to 2 percent of final compensation for each year of
6 credited service. If the nonmember spouse's retirement
7 is effective at less than normal retirement age and
8 between early retirement age *under this part* and normal
9 retirement age, the retirement allowance shall be
10 reduced by one-half of 1 percent for each full month, or
11 fraction of a month, that will elapse until the nonmember
12 spouse would have reached normal retirement age.

13 (1) In computing the retirement allowance of the
14 nonmember spouse, the age of the nonmember spouse on
15 the last day of the month in which the retirement
16 allowance begins to accrue shall be used.

17 (2) Final compensation, for purposes of calculating the
18 service retirement allowance of the nonmember spouse
19 under this subdivision, shall be calculated according to
20 the definition of final compensation in Section 22134,
21 22135, or 22136, whichever is applicable, and shall be
22 based on the compensation earnable of the member up
23 to the date the parties separated, as established in the
24 judgment or court order pursuant to Section 22652.

25 The nonmember spouse shall not be entitled to use any
26 other calculation of final compensation.

27 (d) If the member is or was receiving a disability
28 allowance *under this part* with an effective date before or
29 on the date the parties separated as established in the
30 judgment or court order pursuant to Section 22652, or at
31 any time applies for and receives a disability allowance
32 with an effective date that is before or coincides with the
33 date the parties separated as established in the judgment
34 or court order pursuant to Section 22652, the nonmember
35 spouse shall not be eligible to retire until after the
36 disability allowance of the member terminates.

37 If the member who is or was receiving a disability
38 allowance returns to employment to perform creditable
39 service subject to coverage ~~by the~~ *under the* Defined
40 Benefit Program or has his or her allowance terminated

1 under Section 24015, the nonmember spouse may not be
2 paid a retirement allowance until at least six months after
3 termination of the disability allowance and the return of
4 the member to employment to perform creditable
5 service subject to coverage—~~by the~~ *under the* Defined
6 Benefit Program, or the termination of the disability
7 allowance and the employment or self-employment of
8 the member in any capacity, notwithstanding Section
9 22132. If at the end of the six-month period, the member
10 has not had a recurrence of the original disability or has
11 not had his or her earnings fall below the amounts
12 described in Section 24015, the nonmember spouse may
13 be paid a retirement allowance if all other eligibility
14 requirements are met.

15 (1) The retirement allowance of the nonmember
16 spouse under this subdivision shall be calculated as
17 follows: the disability allowance the member was
18 receiving, exclusive of the benefits for dependent
19 children, shall be divided between the share of the
20 member and the share of the nonmember spouse. The
21 share of the nonmember spouse shall be the amount
22 obtained by multiplying the disability allowance,
23 exclusive of the benefits for dependent children, by the
24 years of service credited to the separate account of the
25 nonmember spouse, including service projected to the
26 date of separation, and dividing by the projected service
27 of the member. The nonmember spouse's retirement
28 allowance shall be the lesser of the share of the
29 nonmember spouse under this subdivision or the
30 retirement allowance under subdivision (c).

31 (2) The share of the member shall be the total
32 disability allowance reduced by the share of the
33 nonmember spouse. The share of the member shall be
34 considered the disability allowance of the member for
35 purposes of Section 24213.

36 (e) The nonmember spouse who receives a
37 retirement allowance is not a retired member *under this*
38 *part*. However, the allowance of the nonmember spouse
39 shall be increased by application of the improvement
40 factor and shall be eligible for the application of

1 supplemental increases and other benefit maintenance
2 provisions *under this part*, including, but not limited to,
3 Sections 24411, 24412, and 24415 based on the same
4 criteria used for the application of these benefit
5 maintenance increases to the service retirement
6 allowances of members.

7 ~~SEC. 30.~~

8 *SEC. 73. Section 22665 of the Education Code is*
9 *amended to read:*

10 22665. The system shall include the service credit
11 awarded to a nonmember spouse in the judgment or
12 court order to determine the eligibility of a member for
13 a retirement or disability allowance *under this part*. That
14 portion of awarded service credit based on previously
15 refunded contributions or on permissive service credit
16 may not be used by the member for eligibility
17 requirements until the member has redeposited or
18 purchased his or her portion of the service credit. The
19 member's service retirement allowance shall be
20 calculated based on the service credit in the member's
21 account on the effective date of service retirement.

22 *SEC. 74. Section 22700 of the Education Code is*
23 *amended to read:*

24 22700. This chapter governs the computation of
25 service to be credited *under this part* to a member of the
26 *Defined Benefit Program* for the purpose of determining
27 eligibility for benefits under the ~~plan~~ *program*, the
28 amount of contributions required of the member *in the*
29 *program*, and the amount of benefits paid to a retired
30 member *under the program*.

31 *SEC. 75. Section 22703 of the Education Code is*
32 *amended to read:*

33 22703. (a) Service shall be computed by school years
34 and not by calendar years, portions of years served being
35 accumulated and counted as service. All of the creditable
36 service performed during any one school year subject to
37 coverage ~~by the plan~~ *under the Defined Benefit Program*
38 shall not count for more than one year.

39 (b) In lieu of any other benefits provided by this part,
40 any member who performed service prior to July 1, 1956,

1 shall receive retirement benefits for that service at least
2 equal to the benefits which he or she would have received
3 for that service under the provisions of this part as they
4 existed on June 30, 1956. ~~The provisions of this~~ This
5 paragraph ~~do~~ does not apply to service which is credited
6 in the San Francisco City and County Employees
7 Retirement System.

8 SEC. 76. Section 22705 of the Education Code is
9 amended to read:

10 22705. No service shall be included *under this part* for
11 which a member *of the Defined Benefit Program* is
12 entitled to receive a retirement benefit in a lump sum or
13 installment payments, for other than military service,
14 from any public retirement system other than this system,
15 or under the American Gratuity Act No. 4151 relating to
16 service in the Philippine Islands under which 15 or more
17 years of creditable service has accrued, or the San
18 Francisco City and County Employees Retirement
19 System. If a retired member *under this part* becomes
20 entitled to such a retirement benefit, his or her
21 retirement allowance shall be reduced thereafter to
22 exclude the service upon which the retirement benefit is
23 based, without other change in his or her retirement
24 status.

25 ~~SEC. 30.5.~~

26 SEC. 77. Section 22705.5 is added to the Education
27 Code, to read:

28 22705.5. Service subject to coverage by the San
29 Francisco City and County Retirement System pursuant
30 to Section 24701 is excluded from coverage in the Defined
31 Benefit Program. The member shall retain the right to
32 receive a retirement allowance for creditable service that
33 is subject to coverage under the Defined Benefit
34 Program unless he or she withdraws his or her
35 accumulated retirement contributions for that service.

36 ~~SEC. 30.6.~~

37 SEC. 78. Section 22706 of the Education Code is
38 amended to read:



1 22706. A member shall not receive credit for service
2 performed while receiving a retirement or disability
3 allowance from the Defined Benefit Program.

4 ~~SEC. 31.~~

5 *SEC. 79. Section 22708 of the Education Code is*
6 *amended to read:*

7 22708. The calculations of retirement allowances
8 *under this part* for state employees in the personal leave
9 program shall include credit for service that would have
10 been credited had the employee not been in the personal
11 leave program. The costs that result from the increased
12 service credit shall be paid for by the employer in a
13 manner prescribed by the system.

14 *SEC. 80. Section 22709 of the Education Code is*
15 *amended to read:*

16 22709. A member shall receive credit *under this part*
17 for time during which the member is prevented from
18 performing creditable service subject to coverage ~~by this~~
19 ~~plan~~ *under the Defined Benefit Program*, by act of God,
20 or by reason of the closing of a school by any duly
21 authorized officer or body. If by reason of a member's
22 Japanese ancestry, the member was required by the
23 Wartime Civil Control Administration to leave his or her
24 teaching position in California and returned prior to July
25 1, 1972, to service subject to coverage ~~by the plan~~ *under*
26 *the Defined Benefit Program*, the system shall give the
27 member four years of service credit ~~in the plan~~ *under this*
28 *part.*

29 *SEC. 81. Section 22710 of the Education Code is*
30 *amended to read:*

31 22710. (a) Service shall be credited *under this part*,
32 upon payment of the contributions required under
33 Sections 22901 and 22950, for that time during which a
34 member is excused from performance of creditable
35 service and for which the member receives workers'
36 compensation, or compensation from an insurance
37 carrier of the employer, due to injury or illness that arose
38 out of and in the course of the member's employment.
39 Service for that time shall be credited in the proportion

1 that the creditable compensation paid to the member
2 bears to the compensation earnable by the member.

3 (b) The amount of creditable compensation paid to
4 the member shall not exceed the compensation earnable
5 by the member during the period of absence specified in
6 subdivision (a).

7 *SEC. 82. Section 22711 of the Education Code is*
8 *amended to read:*

9 22711. (a) A member *under this part* shall be granted
10 service credit for time during which the member serves
11 as an elected officer of an employee organization while on
12 a compensated leave of absence pursuant to Section 44987
13 or 87768.5, if all of the following conditions are met:

14 (1) The member was employed and performed
15 creditable service subject to coverage ~~by the~~ *under this*
16 Defined Benefit Program in the month prior to
17 commencement of the leave of absence.

18 (2) The member makes contributions to the Teachers'
19 Retirement Fund in the amount that the member would
20 have contributed had the member performed creditable
21 service on a full-time basis during the period the member
22 served as an elected officer of the employee organization.

23 (3) The member's employer contributes to the
24 Teachers' Retirement Fund at a rate adopted by the
25 board as a plan amendment with respect to the Defined
26 Benefit Program an amount based upon the creditable
27 compensation that would have been paid to the member
28 had the member performed creditable service on a
29 full-time basis during the period the member served as an
30 elected officer of the employee organization.

31 (b) The maximum period of time during which a
32 member may serve as an elected officer and receive
33 service credit pursuant to this section shall not exceed 12
34 calendar years.

35 ~~SEC. 32.~~

36 *SEC. 83. Section 22712 of the Education Code is*
37 *amended to read:*

38 22712. A member *under this part* shall receive credit
39 for time served as an exchange teacher in any location.

1 SEC. 84. Section 22712.5 of the Education Code is
2 amended to read:

3 22712.5. All members *under this part who are*
4 employed by a school district, community college district,
5 or superintendent of schools *and* who received credit
6 during the school year ending June 30, 1996, for service
7 performed as a community service teacher or in a
8 classified position that does not qualify for membership in
9 the Public Employees' Retirement System, shall continue
10 to receive credit for that service performed after June 30,
11 1996, provided the member remains continuously
12 employed to perform that service.

13 SEC. 85. Section 22713 of the Education Code is
14 amended to read:

15 22713. (a) Notwithstanding any other provision of
16 this chapter, the governing board of a school district or a
17 community college district or a county superintendent of
18 schools may establish regulations that allow an employee
19 who is a member *of the Defined Benefit Program* to
20 reduce his or her workload from full time to part time,
21 and receive the service credit the member would have
22 received if the member had been employed on a full-time
23 basis and have his or her retirement allowance, as well as
24 other benefits that the member is entitled to under this
25 part, based, in part, on final compensation determined
26 from the compensation earnable the member would have
27 been entitled to if the member had been employed on a
28 full-time basis.

29 (b) The regulations shall include, but shall not be
30 limited to, the following:

31 (1) The option to reduce the member's workload shall
32 be exercised at the request of the member and can be
33 revoked only with the mutual consent of the employer
34 and the member.

35 (2) The member shall have been employed full time
36 to perform creditable service subject to coverage ~~by the~~
37 ~~plan~~ *under the Defined Benefit Program* for at least 10
38 years including five years immediately preceding the
39 reduction in workload.

(3) The member shall not have had a break in service during the five years immediately preceding the reduction in workload. For purposes of this subdivision, sabbaticals and other approved leaves of absence shall not constitute a break in service. However, time spent on a sabbatical or other approved leave of absence shall not be used in computing the five-year full-time service requirement prescribed by this subdivision.

(4) The member shall have reached the age of 55 years prior to the reduction in workload.

(5) The period of the reduced workload shall not exceed 10 years.

(6) The reduced workload shall be equal to at least one-half of the full-time equivalent required by the member's contract of employment during his or her final year of full-time employment.

(7) The member shall be paid creditable compensation that is the pro rata share of the creditable compensation the member would have been paid had the member not reduced his or her workload.

(c) Prior to the reduction of a member's workload under this section, the employer in conjunction with the administrative staff of the State Teachers' Retirement System and the Public Employees' Retirement System, shall verify the member's eligibility for the reduced workload program.

(d) The member shall make contributions to the Teachers' Retirement Fund in the amount that the member would have contributed had the member performed creditable service on a full-time basis *subject to coverage under the Defined Benefit Program*.

(e) The employer shall contribute to the Teachers' Retirement Fund at a rate—~~specified~~ *adopted* by the board as a plan amendment *with respect to the Defined Benefit Program* an amount based upon the creditable compensation that would have been paid to the member had the member performed creditable service on a full-time basis *subject to coverage under the Defined Benefit Program*.

(f) The employer shall maintain the necessary records to separately identify each member who participates in the reduced workload program pursuant to this section.

~~SEC. 32.5.~~

SEC. 86. Section 22714 of the Education Code is amended to read:

22714. (a) Whenever the governing board of a school district or a community college district or a county office of education, by formal action taken prior to January 1, 2004, determines pursuant to Section 44929 or 87488 that because of impending curtailment of or changes in the manner of performing services, the best interests of the district or county office of education would be served by encouraging certificated employees or academic employees to retire for service and that the retirement will either: result in a net savings to the district or county office of education; result in a reduction of the number of certificated employees or academic employees as a result of declining enrollment; or result in the retention of certificated employees who are credentialed to teach in, or faculty who are qualified to teach in, teacher shortage disciplines, including, but not limited to, mathematics and science, an additional two years of service shall be credited ~~to a member~~ *under this part to a member of the Defined Benefit Program* if all of the following conditions exist:

(1) The member is credited with five or more years of service and retires for service under the provisions of Chapter 27 (commencing with Section 24201) during a period of not more than 120 days or less than 60 days, commencing no sooner than the effective date of the formal action of the employer that shall specify the period.

(2) The employer transfers to the retirement fund an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the allowance the member receives after receipt of service credit under this section and the amount the member would have received without the service credit and an amount determined by the

1 Teachers' Retirement Board to equal the actuarial
2 equivalent of the difference between the purchasing
3 power protection supplemental payment the member
4 receives after receipt of additional service credit
5 pursuant to this section and the amount the member
6 would have received without the additional service
7 credit. The payment for purchasing power shall be
8 deposited in the Supplemental Benefit Maintenance
9 Account established by Section 22400 and shall be subject
10 to Sections 24414 and 24415. The transfer to the
11 retirement fund shall be made in a manner, and time
12 period not to exceed four years, that is acceptable to the
13 Teachers' Retirement Board. The employer shall transfer
14 the required amount for all eligible employees who retire
15 pursuant to this section.

16 (3) The employer transmits to the retirement fund the
17 administrative costs incurred by the system in
18 implementing this section, as determined by the
19 Teachers' Retirement Board.

20 (4) The employer has considered the availability of
21 teachers or academic employees to fill the positions that
22 would be vacated pursuant to this section.

23 (b) (1) The school district shall demonstrate and
24 certify to the county superintendent that the formal
25 action taken would result in either: (A) a net savings to
26 the district; (B) a reduction of the number of certificated
27 employees as a result of declining enrollment, as
28 computed pursuant to Section 42238.5; or (C) the
29 retention of certificated employees who are credentialed
30 to teach in teacher shortage disciplines.

31 (2) The county superintendent shall certify to the
32 Teachers' Retirement Board that a result specified in
33 paragraph (1) can be demonstrated. The certification
34 shall include, but not be limited to, the information
35 specified in subdivision (b) of Section 14502. A district
36 that qualifies under clause (B) of paragraph (1) shall also
37 certify that it qualifies as a declining enrollment district
38 as computed pursuant to Section 42238.5.



(3) The school district shall reimburse the county superintendent for all the costs of the county superintendent that result from the certification.

(c) (1) The county office of education shall demonstrate and certify to the Superintendent of Public Instruction that the formal action taken would result in either: (A) a net savings to the county office of education; (B) a reduction of the number of certificated employees as a result of declining enrollment; or (C) the retention of certificated employees who are credentialed to teach in teacher shortage disciplines.

(2) The Superintendent of Public Instruction shall certify to the Teachers' Retirement Board that a result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (b) of Section 14502.

(3) The Superintendent of Public Instruction may request reimbursement from the county office of education for all administrative costs that result from the certification.

(d) (1) The community college district shall demonstrate and certify to the chancellor's office that the formal action taken would result in either: (A) a net savings to the district; (B) a reduction in the number of academic employees as a result of declining enrollment, as computed pursuant to subdivision (c) of Section 84701; or (C) the retention of faculty who are qualified to teach in teacher shortage disciplines.

(2) The chancellor shall certify to the Teachers' Retirement Board that a result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (c) of Section 84040.5. A community college district that qualifies under clause (B) of paragraph (1) of subdivision (b) of this section shall also certify that it qualifies as a declining enrollment district as computed pursuant to subdivision (c) of Section 84701.

(3) The chancellor may request reimbursement from the community college for all administrative costs that result from the certification.

(e) The opportunity to be granted service credit pursuant to this section shall be available to all members employed by the school district, community college district, or county office of education who meet the conditions set forth in this section.

(f) The amount of service credit shall be two years.

(g) Any member ~~who retires of the Defined Benefit Program who retires under this part~~ for service under the provisions of Chapter 27 (commencing with Section 24201) with service credit granted under this section and who subsequently reinstates shall forfeit the service credit granted under this section.

(h) This section shall not be applicable to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the effective date of the formal action, or if the member is not otherwise eligible to retire for service.

~~SEC. 33. Section 23851 of the Education Code is amended to read:~~

~~23851. (a) A death payment of twenty thousand dollars (\$20,000) shall be paid to the beneficiary, as designated pursuant to Section 23300, upon receipt of proof of death of an active member, who had one or more years of credited service, at least one of which had been performed subsequent to the most recent refund of accumulated retirement contributions, if the member died during any one of the following periods:~~

~~(1) While in employment for which compensation is paid.~~

~~(2) Within four months after termination of service or termination of employment, whichever occurs first.~~

~~(3) Within 12 months of the last day for which compensation was paid, if the member was on an approved leave of absence without compensation for reasons other than disability or military service.~~

~~(b) A death payment pursuant to this section shall not be payable for the death of a member that occurs within one year commencing with the effective date of~~

1 ~~termination of the service retirement allowance pursuant~~
2 ~~to Section 24208 or during the six calendar months~~
3 ~~commencing with the effective date of termination of the~~
4 ~~disability retirement allowance pursuant to Section~~
5 ~~24117.~~

6 ~~(e) The board may adjust the death payment amount~~
7 ~~following each actuarial valuation based on changes in~~
8 ~~the All Urban California Consumer Price Index and adopt~~
9 ~~as a plan amendment any adjusted amount.~~

10 ~~(d) A designated beneficiary may waive his or her~~
11 ~~right to the death payment in accordance with the~~
12 ~~requirements established by the system.~~

13 ~~SEC. 34. Section 22955 of the Education Code is~~
14 ~~amended to read:~~

15 ~~22955. (a) Notwithstanding Section 13340 of the~~
16 ~~Government Code, commencing October 1, 1991, a~~
17 ~~continuous appropriation is hereby made from the~~
18 ~~General Fund to the Controller, pursuant to this section,~~
19 ~~for transfer to the Teachers' Retirement Fund. The total~~
20 ~~amount of the appropriation for each year shall be equal~~
21 ~~to 4.3 percent of the total of the creditable compensation~~
22 ~~of the immediately preceding calendar year upon which~~
23 ~~members' contributions are based, to be calculated~~
24 ~~annually on October 1, and shall be divided into four~~
25 ~~equal quarterly payments. The percentage shall be~~
26 ~~adjusted to reflect the contribution required to fund the~~
27 ~~normal cost deficit when the unfunded obligation has~~
28 ~~been deemed to be eliminated by the board based upon~~
29 ~~a recommendation from its actuary. If a rate increase or~~
30 ~~decrease is required, the adjustment may be for no more~~
31 ~~than 0.25 percent per year and in no case may the transfer~~
32 ~~exceed 4.3 percent of the total of the creditable~~
33 ~~compensation of the immediately preceding calendar~~
34 ~~year upon which members' contributions are based.~~

35 ~~(b) The funds transferred pursuant to subdivision (a)~~
36 ~~shall first be applied to meeting the normal cost deficit,~~
37 ~~if any, for that fiscal year.~~

38 ~~(c) The transfers made pursuant to this section are in~~
39 ~~lieu of the state contributions formerly made pursuant to~~
40 ~~former Sections 23401 and 23402 as they provided in 1990.~~

~~(d) For the purposes of this section, the term “normal cost deficit” means the difference between the normal cost rate as determined in the actuarial valuation required by Section 22311 and the total of the member contribution rate required under Section 22901 and the employer contribution rate required under Section 22950, and shall exclude (1) the portion for unused sick leave service granted pursuant to Section 22951, and (2) the cost of benefit increases which occur after July 1, 1990. The contribution rates prescribed in Section 22901 and Section 22950 on July 1, 1990, shall be utilized to make the calculations. The normal cost deficit shall then be multiplied by the total of the creditable compensation upon which member contributions are based to determine the dollar amount of the normal cost deficit for the year.~~

~~(e) Pursuant to Section 22001 and the case law, the members are entitled to a financially sound retirement system. The Legislature recognizes that the system shall, pursuant to this act, receive less funds in the short term than it would have received under former Sections 23401 and 23402 (Chapter 282 of the Statutes of 1979). However, it is the intent of the Legislature that this section shall provide the retirement fund stable and full funding over the long term.~~

~~(f) This section continues in effect but in a somewhat different form, fully performs, and does not in any way unreasonably impair, the contractual obligations determined by the court in California Teachers’ Association v. Cory, 155 Cal. App. 3d 494.~~

~~(g) This section shall not be construed to be applicable to any unfunded liability resulting from any benefit increase or change in contribution rate that occurs after July 1, 1990.~~

~~(h) The amendments to this section during the 1991-92 Regular Session shall be construed and implemented to be in conformity with the judicial intent expressed by the court in California Teachers’ Association v. Cory, 155 Cal. App. 3d 494.~~

~~SEC. 34.2.~~

1 SEC. 87. Section 22715 of the Education Code is
2 amended to read:

3 22715. (a) Notwithstanding any other provisions of
4 this part, whenever the Governor, by executive order,
5 determines that because of an impending curtailment of,
6 or change in the manner of performing service, the best
7 interest of the state would be served by encouraging the
8 retirement of state employees, and that sufficient
9 economies could be realized to offset any cost to state
10 agencies resulting from this section, an additional two
11 years of service shall be credited *under this part* to
12 members of the *Defined Benefit Program*, who are state
13 employees, if the following conditions exist:

14 (1) The member is credited with five or more years of
15 service and retires during a period not to exceed 120 days
16 or less than 60 days commencing no sooner than the date
17 of issuance of the Governor's executive order specifying
18 that period.

19 (2) The appointing power, as defined in Section 18524
20 of the Government Code, transfers to the retirement
21 fund an amount determined by the board to equal the
22 actuarial equivalent of the difference between the
23 allowance the member receives after the receipt of
24 service credit under this section and the amount the
25 member would have received without the service credit.
26 The transfer to the retirement fund shall be made in a
27 manner and time period acceptable to the employer and
28 the board.

29 (3) The appointing power determines that it is
30 electing to exercise the provisions of this section,
31 pursuant to the Governor's order, and certifies to the
32 Department of Finance and to the Legislative Analyst, as
33 to the specific economies that would be realized if the
34 additional service credit toward retirement were
35 granted.

36 (b) As used in this section, "member" means a state
37 employee who is employed in a job classification,
38 department, or other organizational unit designated by
39 the appointing power, as defined in Section 18524 of the
40 Government Code.

1 (c) The amount of service credit shall be two years
2 regardless of credited service, but shall not exceed the
3 number of years intervening between the date of the
4 member's retirement *under this part* and the date the
5 member would be required to be retired because of age.
6 The appointing power shall make the payment with
7 respect to all eligible employees who retire pursuant to
8 this section.

9 (d) Any member who qualifies under this section,
10 upon subsequent reinstatement *under this part*, shall
11 forfeit the service credit granted under this section.

12 (e) This section shall not be applicable to any member
13 otherwise eligible if that member receives any
14 unemployment insurance payments arising out of
15 employment with an employer subject to this part during
16 a period extending one year beyond the date of issuance
17 of the executive order or if the member is not eligible to
18 retire without the additional credit available under this
19 section.

20 (f) The benefit provided by this section shall not be
21 applicable to the employees of any appointing power
22 until the Director of Finance approves the transmittal of
23 funds by that appointing power or the Board of Regents
24 or the Board of Trustees to the retirement fund pursuant
25 to paragraph (2) of subdivision (a).

26 (g) The Director of Finance shall approve the
27 transmittal of funds by the appointing power not sooner
28 than 30 days after notification in writing of the necessity
29 therefor to the chairperson of the committee in each
30 house that considers appropriations and the chairperson
31 of the Joint Legislative Budget Committee, or not sooner
32 than any lesser time that the chairperson of the
33 committee, or his or her designee, may in each instance
34 determine. If there is any written communication
35 between the Director of Finance and the Legislative
36 Analyst, a copy of the communication shall be
37 transmitted to the chairperson of each appropriate policy
38 committee.

39 SEC. 88. *Section 22716 of the Education Code is*
40 *amended to read:*

1 22716. Notwithstanding any other provision of law, a
2 member of the *Defined Benefit Program* upon any
3 subsequent service under unpaid contract or any other
4 unpaid basis with the trustees, shall not be required to
5 forfeit the service credit granted under former Section
6 22732, as it read on June 29, 1993.

7 *SEC. 89. Section 22718 of the Education Code is*
8 *amended to read:*

9 22718. (a) The Teachers' Retirement Board shall
10 establish rules and regulations for the purpose of billing
11 school employers for service credit granted for sick leave
12 *under this part*, including, but not limited to, both of the
13 following provisions:

14 (1) The billing shall be authorized only if the employer
15 grants more than one day of sick leave per pay period of
16 at least four weeks to members of the ~~plan~~ *Defined*
17 *Benefit Program*.

18 (2) The employer shall be billed only for the present
19 value of sick leave days granted in excess of one day per
20 pay period of at least four weeks.

21 (b) If a school employer fails to pay a bill charged
22 according to the rules and regulations established
23 pursuant to subdivision (a), the Teachers' Retirement
24 Board may request the Superintendent of Public
25 Instruction or the Chancellor of the California
26 Community Colleges, as appropriate, to reduce state
27 apportionments to the school employer by an amount
28 equal to the amount billed. The superintendent or
29 chancellor shall make the reduction, and if requested by
30 the board, direct the Controller to reduce the amount
31 transferred from the General Fund to Section A or
32 Section B, as appropriate, of the State School Fund by an
33 equal amount, which shall instead be transferred to the
34 Teachers' Retirement Fund.

35 *SEC. 90. Section 22721 of the Education Code is*
36 *amended to read:*

37 22721. Except as provided in Section 22717, no service
38 credit shall be granted *under this part* for any payment
39 made for accumulated sick leave upon transfer from one
40 employer to another, upon termination of service, upon

1 retirement, or upon death. No contributions *under this*
2 *part* shall be withheld from any such payments. Payments
3 for accumulated sick leave shall be paid to the member
4 by separate warrant and shall not be included in any
5 payroll warrant issued to the member. The payments
6 shall not be included in the determination of “final
7 ~~compensation.~~” *compensation” under this part.* No
8 continued leave of absence shall be granted a member
9 solely for the purpose of allowing the member to receive
10 compensation for accumulated sick leave for which the
11 member could otherwise have elected to receive
12 payment.

13 *SEC. 91. Section 22800 of the Education Code is*
14 *amended to read:*

15 22800. (a) Claims for permissive and additional
16 service credit *under this part* shall be corroborated by a
17 statement from the superintendent of schools or
18 custodian of records of the employer for which the service
19 was performed.

20 (b) Claims for creditable service *under this part*
21 performed outside the United States or in federal schools
22 within the United States shall be corroborated by a
23 statement from the custodian of records.

24 (c) When the official records of the service have been
25 destroyed, the claim may be corroborated by one or more
26 affidavits of knowledge of the service, preferably by
27 persons who served with the member at the time the
28 service was performed.

29 *SEC. 92. Section 22802 of the Education Code is*
30 *amended to read:*

31 22802. (a) A member who was previously excluded
32 from membership in the ~~plan~~ *Defined Benefit Program*
33 may elect to receive credit for:

34 (1) Service as a substitute excluded under Section
35 22602.

36 (2) Service performed on a part-time basis excluded
37 under Section 22601.5 or Section 22604.

38 (3) Adult education service excluded under Section
39 22603, as it read on December 31, 1995.

1 (4) Service as a school nurse excluded under Section
2 22606, as it read on December 31, 1995.

3 (5) Service performed in a position prior to the date
4 the position was made subject to coverage ~~by the plan~~
5 *under the Defined Benefit Program*.

6 (6) Service subject to coverage ~~by the plan~~ *under the*
7 *Defined Benefit Program* performed while a member of
8 another California public retirement system, provided
9 the member has ceased to be a member of, and has ceased
10 to be entitled to benefits from, the other retirement
11 system. The member shall not receive credit for the
12 service if the member may redeposit withdrawn
13 contributions and subsequently be eligible for any
14 benefits based upon the same service or based upon other
15 full-time service performed during the same period, from
16 another California public retirement system.

17 (b) A member who elects to receive credit *under this*
18 *part* for service performed while excluded from
19 membership *under the Defined Benefit Program* shall
20 pay the required contributions for all such service.

21 *SEC. 93. Section 22805 of the Education Code is*
22 *amended to read:*

23 22805. (a) A member may elect to receive credit
24 *under this part* for time served in the active military
25 service of the United States or of this state, including
26 active service in any uniformed auxiliary to any branch of
27 that military service authorized as an auxiliary by the
28 United States Congress or the California State
29 Legislature, or in the full-time paid service of the
30 American Red Cross prior to September 1957, if both of
31 the following conditions exist:

32 (1) The time served was during war with any foreign
33 power or during other national emergency, or in time of
34 peace if the member was drafted for that service by the
35 United States government.

36 (2) The member was employed to perform creditable
37 service subject to coverage by the plan within one year
38 prior to entering that service. Time included under this
39 section shall be considered as served in the state in which

1 the member was last employed before entering that
2 service.

3 (b) Time during which the member is absent without
4 compensation for other cause, on leave, or otherwise,
5 shall not be included.

6 *SEC. 94. Section 22806 of the Education Code is*
7 *amended to read:*

8 22806. (a) A member who is a state employee who
9 retired on or after December 31, 1981, and who was at
10 retirement a state employee may elect to receive credit
11 *under this part*, of not to exceed four years, for time
12 served of not less than one year, prior to ~~entering this~~
13 ~~system membership in the Defined Benefit Program~~, in
14 the armed forces of the United States or in the Merchant
15 Marine of the United States prior to January 1, 1950.
16 Service credit shall not be granted if that service
17 terminated with a discharge under dishonorable
18 conditions. The service credit to be accorded pursuant to
19 this section for that service shall be on the basis of one year
20 of credit for each five years of credited service, but shall
21 not exceed a total of four years of service credit regardless
22 of the number of years of either that service or
23 subsequent service. A member electing to receive a
24 credit *under this part* for that service shall have been
25 credited with at least 10 years of service on the date of
26 election or the date of retirement.

27 (b) An election by a member with respect to service
28 credit under this section may be made only while the
29 member is in state or university employment, and a
30 retired member shall have retired immediately following
31 service as a member who was at retirement a state
32 employee. The retirement allowance of a member who
33 elects to receive service credit pursuant to this section
34 shall be increased only with respect to the allowance
35 payable on and after the date of election.

36 (c) A member who elects to become subject to this
37 section shall pay all reasonable administrative costs and
38 contributions, sufficient to cover the total employer and
39 employee cost plus interest of the military service credit,
40 at rates to be determined by the board. The amount shall

1 be contributed in lump sum or by installments over the
2 period and subject to those minimum payments as may
3 be prescribed by regulations of the board. Payments for
4 administrative costs shall be credited to the current
5 appropriation for support of the board and available for
6 expenditure by the board to fund positions deemed
7 necessary by the board to implement this section.

8 (d) The board has no duty to locate or notify any
9 member or to provide the name or address of any
10 member, agency, or entity for the purpose of notifying
11 those persons.

12 *SEC. 95. Section 22807 of the Education Code is*
13 *amended to read:*

14 22807. (a) A member of the Defined Benefit
15 Program who voluntarily requests or agrees to an
16 extension of his or her original term of enlistment,
17 service, or tour of duty shall not receive credit *under this*
18 *part* for time served during the extension of military
19 service after December 31, 1958.

20 (b) In no event shall a member receive credit for more
21 than four years of military service performed after June
22 30, 1998, except where otherwise authorized in
23 accordance with Chapter 14.5 (commencing with Section
24 22850).

25 *SEC. 96. Section 22808 of the Education Code is*
26 *amended to read:*

27 22808. A member of the Defined Benefit Program
28 shall not be required to pay contributions *under this part*
29 to receive credit for service under Section 22805 under
30 any of the following conditions:

31 (a) The service was performed after September 15,
32 1940, and the member returned to employment subject
33 to coverage ~~by the plan~~ *under the Defined Benefit*
34 *Program* prior to March 19, 1948.

35 (b) The service was performed prior to January 1,
36 1950, and the member was continuously performing the
37 service prior to that date and returned to employment
38 subject to coverage ~~by the plan~~ *under the Defined*
39 *Benefit Program* within six months following the
40 termination of the service.

1 (c) The service was performed prior to September 14,
2 1978, and the member entered that service after
3 December 31, 1949, and returned to employment subject
4 to coverage ~~by the plan~~ *under the Defined Benefit*
5 *Program* within six months following the termination of
6 the service.

7 (d) The service was performed prior to January 1,
8 1992, and the member entered that service after August
9 1, 1990, and retired or returned to employment subject to
10 coverage ~~by the plan~~ *under the Defined Benefit Program*
11 and earned additional service credit within six months
12 following the termination of that service or within six
13 months after the completion of any period of
14 rehabilitation offered by the United States government,
15 excluding rehabilitation solely for educational purposes.
16 Notwithstanding Section 22250, 22251, or 22253,
17 employers of members subject to this section shall not be
18 required to make the contributions required by Chapter
19 16 (commencing with Section 22950).

20 *SEC. 97. Section 22809 of the Education Code is*
21 *amended to read:*

22 22809. A member *of the Defined Benefit Program*
23 may elect to receive credit *under this part* for teaching
24 service performed within and outside of this state in a war
25 relocation center administered by the Wartime Civil
26 Control Administration if all of the following conditions
27 exist:

28 (a) By reason of the member's Japanese ancestry the
29 member was placed in a war relocation center prior to
30 becoming a member of the ~~plan~~ *Defined Benefit*
31 *Program*.

32 (b) The member earned compensation for service in
33 a teaching capacity in the relocation center.

34 (c) The member possessed a valid California teaching
35 credential issued by the State Department of Education
36 or had a bachelor's degree in education from a California
37 postsecondary institution.

38 *SEC. 98. Section 22810 of the Education Code is*
39 *amended to read:*

1 22810. (a) Any member of the Defined Benefit
2 Program, who was a member of the ~~plan~~ program on June
3 30, 1944, may elect to receive credit *under this part* for the
4 following service performed prior to July 1, 1944, in other
5 states, territories, or possessions of the United States, or in
6 Canada:

7 (1) Service in a teaching position that in this state
8 would be subject to coverage ~~by the plan~~ under the
9 Defined Benefit Program.

10 (2) Service in a teaching position in a publicly
11 supported and administered university or college.

12 (3) Service in a teaching position with the Civilian
13 Conservation Corps or in an Indian school supported and
14 administered by the United States government.

15 (4) Service in a publicly supported residential school
16 for the deaf or the blind.

17 (b) In no event shall the member receive credit for
18 this service if the member has received or is eligible to
19 receive credit for the same service in another retirement
20 system.

21 SEC. 99. Section 22821 of the Education Code is
22 amended to read:

23 22821. A member's election to purchase out-of-state
24 service credit *pursuant to this chapter* shall be submitted
25 in writing and shall include information as required by
26 the board.

27 SEC. 100. Section 22823 of the Education Code is
28 amended to read:

29 22823. (a) A member who elects to receive credit for
30 out-of-state service as provided in this chapter shall
31 contribute to the retirement fund the actuarial cost of the
32 service, including interest as appropriate, as determined
33 by the board based on the most recent valuation of the
34 ~~plan~~ Defined Benefit Program.

35 (b) (1) Any payment that a member may make to the
36 system to obtain credit for out-of-state service *pursuant*
37 *to this chapter* shall be paid in full prior to the effective
38 date of a family, survivor, disability, or retirement
39 allowance.

1 (2) If the system is unable to inform the member of the
2 amount required to purchase out-of-state service prior to
3 the effective date of the applicable allowance, the
4 member may make payment in full within 30 days after
5 the date of mailing of the statement of contributions and
6 interest required or the effective date of the appropriate
7 allowance, whichever is later.

8 (c) Contributions for out-of-state service credit shall
9 be made in a lump sum, or in not more than 120 monthly
10 installments. No installment, except the final installment,
11 shall be less than twenty-five dollars (\$25).

12 (d) Regular interest shall be charged on the monthly
13 unpaid balance if the member makes installment
14 payments.

15 *SEC. 101. Section 22850 of the Education Code is*
16 *amended to read:*

17 22850. (a) The Legislature hereby declares its intent
18 to provide benefits *under this part* to reemployed
19 members who have been absent from a position of
20 employment ~~covered by the plan~~ *subject to coverage*
21 *under the Defined Benefit Program* to perform service
22 in the uniformed services of the United States in
23 accordance with the Uniformed Services Employment
24 and Reemployment Rights Act of 1994 (Chapter 43
25 (commencing with Section 4301) of Title 38 of the United
26 States Code).

27 (b) The system shall comply with Chapter 43
28 (commencing with Section 4301) of Title 38 of the United
29 States Code, as that chapter may be amended from time
30 to time.

31 (c) “Service in the uniformed services” means the
32 performance of duty on a voluntary or involuntary basis
33 in a uniformed service under competent authority and
34 includes active duty, active duty for training, initial active
35 duty for training, inactive duty training, and a period for
36 which a member is absent from a position of employment
37 for the purpose of an examination to determine the
38 fitness of the member to perform any duty.

39 (d) “Uniformed services” means the Armed Forces of
40 the United States of America, the Army National Guard

1 and the Air National Guard when engaged in active duty
2 for training, inactive duty training, or full-time National
3 Guard duty, the commissioned corps of the Public Health
4 Service, and any other category of persons designated by
5 the President in time of war or emergency.

6 (e) Except as provided in Section 22851, no benefit
7 shall accrue during the period of service in the uniformed
8 services if the member does not return to employment,
9 with the same employer which had employed the
10 member immediately prior to the eligible period of
11 service in the uniformed services, as prescribed in
12 Chapter 43 (commencing with Section 4301) of Title 38
13 of the United States Code.

14 *SEC. 102. Section 22851 of the Education Code is*
15 *amended to read:*

16 22851. The right to pension benefits *under this part* of
17 a member who returns to employment with the same
18 employer which had employed the member immediately
19 prior to the eligible period of service in the uniformed
20 services, and is subject to Chapter 43 (commencing with
21 Section 4301) of Title 38 of the United States Code shall
22 be determined under this section.

23 (a) (1) A member shall be treated as not having
24 incurred a break in service by reason of that member's
25 eligible period or periods of service in the uniformed
26 services.

27 (2) Each eligible period of service served by a member
28 in the uniformed services shall, upon return to
29 employment, with the same employer which had
30 employed the member immediately prior to the eligible
31 period of service in the uniformed services, be deemed to
32 constitute service with the employer or employers
33 toward plan vesting and eligibility for membership in the
34 ~~plan~~ *Defined Benefit Program*.

35 (3) A member who returns to employment, with the
36 same employer which had employed the member
37 immediately prior to the eligible period of service in the
38 uniformed services shall not be entitled to any benefits
39 *under this part* in respect of service in the uniformed
40 services to which the member would not otherwise have

1 been entitled had the member remained continuously
2 employed and not undertaken such service in the
3 uniformed services.

4 (b) For purposes of calculating benefits, a member
5 who returns to employment with the same employer
6 which had employed the member immediately prior to
7 the eligible period of service in the uniformed services
8 shall be entitled to service credit *under this part* for the
9 eligible period of service in the uniformed services upon
10 his or her payment of the member contributions required
11 under Section 22901 that otherwise would have been due
12 for such period of service had the member remained
13 continuously employed and not undertaken such service
14 in the uniformed services. No such payment of member
15 contributions may exceed the amount the member would
16 have been required to contribute *under this part* had the
17 member not served in the uniformed services and had
18 remained continuously employed by the employer
19 throughout the eligible period of service in the uniformed
20 services. If a member fails to remit the member
21 contributions that would have been required under
22 Section 22901 in respect of the eligible period of service
23 in the uniformed services no service credit shall be
24 provided *under this part* for the period to which the
25 omitted contributions relate.

26 (c) Any payment of member contributions to the ~~plan~~
27 *Defined Benefit Program* in this section shall be made by
28 the member during the period beginning with the date
29 of return to employment and may continue for three
30 times the period of the member's eligible service in the
31 uniformed services, not to exceed five years. Any
32 payment of member contributions to the ~~plan~~ *Defined*
33 *Benefit Program* in this section by a member who
34 returned to employment prior to January 1, 1997, and
35 qualifies for benefits in accordance with the Uniformed
36 Services Employment and Reemployment Rights Act of
37 1994 (Chapter 43 (commencing with Section 4301) of
38 Title 38 of the United States Code), shall be made by the
39 member during the period beginning with the date of
40 notification of eligibility by the employer to the ~~plan~~

1 *system* and may continue for three times the period of the
 2 member's eligible service in the uniformed services, not
 3 to exceed five years. Any subsequent request to purchase
 4 this service shall be subject to the provisions of Chapter
 5 14 (commencing with Section 22800). If all contributions
 6 due *under this part* are not paid to the plan *with respect*
 7 *to the Defined Benefit Program* within the specified
 8 repayment period and in accordance with subdivision
 9 (b) of Section 22851 the contributions shall be returned
 10 to the member at the end of the repayment period.
 11 Interest on member contributions made for the eligible
 12 period of service in the uniformed services shall not be
 13 credited *under this part* until after the contributions due
 14 are paid and then only prospectively to the member's
 15 account in accordance with Section 22216.

16 *SEC. 103. Section 22852 of the Education Code is*
 17 *amended to read:*

18 22852. (a) An employer reemploying a member of
 19 *the Defined Benefit Program* with service subject to the
 20 requirements of Chapter 43 (commencing with Section
 21 4301) of Title 38 of the United States Code shall be liable
 22 to the plan for the employer contributions *under this part*
 23 provided that employer was the last employer employing
 24 the member immediately prior to the period served by
 25 the member in the uniformed services.

26 (b) For purposes of determining the amount of that
 27 liability *under this part* and any obligation to the plan
 28 *with respect to the Defined Benefit Program*, interest
 29 shall not be included in the liability to the plan.

30 (c) Subject to subdivision (e), the employer shall pay
 31 the employer contributions for the eligible period of
 32 service in the uniformed services, that would have been
 33 required under Sections 22950 and 22951 had the member
 34 remained continuously employed during that period of
 35 eligible service in the uniformed services.

36 (d) The employer shall not be liable for employer
 37 contributions *under this part* for the eligible period of
 38 service in the uniformed services to the extent that the
 39 member fails to remit the member contributions for such
 40 period.

1 ~~(e) Any employer who reemploys a member who is~~
2 ~~subject to Chapter 43 (commencing with Section 4301) of~~
3 ~~Title 38 of the United States Code, shall, within 30 days~~
4 ~~after the date of the reemployment, provide information~~
5 ~~as required by the board, on a form provided by the plan,~~
6 ~~notifying the plan of the reemployment. The employer~~
7 ~~shall provide information regarding the reemployment of~~
8 ~~a member who is subject to Chapter 43 (commencing~~
9 ~~with Section 4301) of Title 38 of the United State Codes~~
10 ~~on a form prescribed by the system within 30 days of the~~
11 ~~date of reemployment.~~

12 (f) Employers shall remit *to the plan with respect to*
13 *the Defined Benefit Program* the employer contributions
14 ~~to the plan~~ required under subdivision (c) within 60
15 working days of the date the system notifies the employer
16 of the amount of contributions due ~~in~~ *with respect of* to
17 the member who elects to remit the member
18 contributions for the eligible period of service in the
19 uniformed services.

20 (g) If the employee does not comply with subdivision
21 (b) of Section 22851 within the time period specified, the
22 employer contributions that were remitted for that
23 period shall be adjusted pursuant to Section 23008.

24 *SEC. 104. Section 22853 of the Education Code is*
25 *amended to read:*

26 22853. For purposes of computing an employer's
27 contributions for the eligible period of service or the
28 member's contributions *under this part*, the employee's
29 compensation earnable during the period shall be
30 computed as follows:

31 (a) The compensation earnable the member would
32 have received for the eligible period of service.

33 (b) In the event the compensation earnable is not
34 reasonably certain, the employer's contributions and
35 member's contributions shall be based on the member's
36 average compensation earnable during the 12-month
37 period immediately preceding the eligible period of
38 service in the uniformed services or, if shorter, the period
39 of employment immediately preceding that period of
40 service.

1 *SEC. 105. Section 22854 of the Education Code is*
2 *amended to read:*

3 22854. A reemployed member who has been absent
4 from a position of employment ~~covered by the plan~~
5 *subject to coverage under the Defined Benefit Program*
6 to perform service in the uniformed services, pursuant to
7 Section 22850, for a period in excess of five years shall not
8 be entitled to service credit or credit for plan vesting
9 purposes *under this part*, except where the service in the
10 uniformed services has exceeded five years for the
11 following reasons:

12 (a) The member is required to serve beyond five years
13 to complete an initial period of obligated service.

14 (b) The member was unable to obtain orders releasing
15 the member from a period of service in the uniformed
16 services before the expiration of the five-year period and
17 that inability was through no fault of the member.

18 (c) The member served in the uniformed services as
19 required pursuant to Section 270 of Title 10 of the United
20 States Code, Section 502(a) or 503 of Title 32 of the United
21 States Code, or to fulfill additional training requirements
22 determined and certified in writing by the Secretary of
23 Defense, to be necessary for professional development, or
24 for completion of skill training or retraining.

25 (d) The member is ordered to do any of the following:

26 (1) Ordered to or retained on active duty under
27 Section 672(a), 672(g), 673, 673(b), 673(c), or 688 of Title
28 10 of the United States Code or under Section 331, 332,
29 359, 360, 367, or 712 of Title 14 of the United States Code.

30 (2) Ordered to or retained on active duty, other than
31 for training, under any provision of law during a war or
32 during a national emergency declared by the President
33 or the Congress.

34 (3) Ordered to active duty, other than for training, in
35 support, as determined by the secretary concerned, of an
36 operational mission for which personnel have been
37 ordered to active duty under Section 673(b) of Title 10 of
38 the United States Code.

1 (4) Ordered to active duty in support, as determined
2 by the secretary concerned, of a critical mission or
3 requirement of the uniformed services.

4 (5) Called into federal service as a member of the
5 National Guard under Chapter 15 (commencing with
6 Section 331) of Title 10 of the United States Code or under
7 Section 3500 or 8500 of Title 10 of the United States Code.

8 *SEC. 106. Section 22855 of the Education Code is*
9 *amended to read:*

10 22855. A member of the Defined Benefit Program
11 shall have no right to the benefits under this part
12 otherwise accorded under this chapter in respect of
13 service in the uniformed services upon the occurrence of
14 any of the following events:

15 (a) A separation of the member from the uniformed
16 service with a dishonorable or bad conduct discharge.

17 (b) A separation of the member from the uniformed
18 service under other than honorable conditions, as
19 characterized pursuant to regulations prescribed by the
20 secretary concerned.

21 (c) A dismissal of the member permitted under
22 Section 1161(a) of Title 10 of the United States Code.

23 (d) A dropping of the member from the rolls pursuant
24 to Section 1161(b) of Title 10 of the United States Code.

25 *SEC. 107. Section 22856 of the Education Code is*
26 *amended to read:*

27 22856. No provision of this chapter shall apply to the
28 extent it would require any action to be taken that would
29 cause the plan or its members under this part to incur
30 adverse tax consequences under the Internal Revenue
31 Code of 1986 (Title 26 of the United States Code).

32 *SEC. 108. Section 22900 of the Education Code is*
33 *amended to read:*

34 22900. Acceptance of employment to perform
35 creditable service subject to coverage ~~by the plan~~ under
36 the Defined Benefit Program is consent to have
37 contributions deducted from compensation.

38 *SEC. 109. Section 22901 of the Education Code is*
39 *amended to read:*

1 22901. Each member of the ~~plan~~ *Defined Benefit*
2 *Program* shall contribute to the retirement fund an
3 amount equivalent to 8 percent of the member's
4 creditable compensation.

5 *SEC. 110. Section 22902 of the Education Code is*
6 *amended to read:*

7 22902. Members' accumulated retirement
8 contributions and those other contributions required for
9 credited service *under this part* shall be in the amounts
10 required based on rates of contribution applicable for the
11 years included in that period.

12 *SEC. 111. Section 22903 of the Education Code is*
13 *amended to read:*

14 22903. Notwithstanding Sections 22901, 22956, and
15 23000, each school district, community college district,
16 county board of education, and county superintendent of
17 schools, may pick up, for the sole purpose of deferring
18 taxes, as authorized by Section 414(h)(2) of the Internal
19 Revenue Code of 1986 (26 U.S.C.A. Sec. 414(h)(2)) and
20 Section 17501 of the Revenue and Taxation Code, all of
21 the contributions required to be paid *under this part* by
22 a member of the ~~plan~~ *Defined Benefit Program*, provided
23 that the contributions are deducted from the creditable
24 compensation of the member.

25 *SEC. 112. Section 22904 of the Education Code is*
26 *amended to read:*

27 22904. Notwithstanding any other provision of law,
28 the state may pick up all or a portion of the contributions
29 required to be paid *under this part* by a state employee
30 who is a member of the ~~plan~~ *Defined Benefit Program*,
31 provided that the contributions are deducted from the
32 creditable compensation of the member. The pick up of
33 member contributions shall be through a salary reduction
34 program pursuant to Section 414(h)(2) of the Internal
35 Revenue Code of 1986 (26 U.S.C.A. Sec. 414(h)(2)).
36 These contributions shall be reported as employer-paid
37 member contributions, and shall be credited to the
38 account of the member.

39 *SEC. 113. Section 22906 of the Education Code is*
40 *amended to read:*

1 22906. If at the time of retirement, disability, or death,
2 there are contributions remaining to the credit of the
3 member that were made with respect to time on the basis
4 of which a benefit will not be payable *under this part*, the
5 board shall refund the contributions as it may allocate to
6 the time.

7 *SEC. 114. Section 22907 of the Education Code is*
8 *amended to read:*

9 22907. Accumulated retirement contributions
10 credited *under this part* to the account of a member
11 whose date of birth is changed in the records of the system
12 after December 31, 1979, shall be adjusted to the proper
13 amount based on the correct birth date by either of the
14 following methods:

15 (a) A refund of the excess contributions plus credited
16 interest from the end of the school year in which
17 contributions were overpaid because of the incorrect
18 birth date.

19 (b) Payment by the member of the contributions due
20 to the plan *under this part* plus regular interest from the
21 end of the school year in which the contributions were
22 underpaid to the date of payment.

23 *SEC. 115. Section 22950 of the Education Code is*
24 *amended to read:*

25 22950. Employers shall contribute monthly to the
26 Teachers' Retirement Fund 8 percent of the creditable
27 compensation upon which members' contributions
28 *under this part* are based.

29 *SEC. 116. Section 22951 of the Education Code is*
30 *amended to read:*

31 22951. In addition to any other contributions required
32 by this part, employers shall contribute monthly to the
33 Teachers' Retirement Fund 0.25 percent of the creditable
34 compensation upon which members' contributions
35 *under this part* are based.

36 *SEC. 117. Section 22951.5 of the Education Code is*
37 *amended to read:*

38 22951.5. In addition to any other contributions
39 required by this part, if the board determines that the
40 Supplemental Benefit Maintenance Account will not

have sufficient funds to make the maximum payment *under this part* pursuant to Section 24417, the board may increase the employer contribution rate as provided in Section 24416.

SEC. 118. Section 22952 of the Education Code is amended to read:

22952. (a) Effective January 1, 1980, in addition to all other contributions required by this part, on account of liability for benefits pursuant to Section 24407, employers shall contribute monthly to the Teachers' Retirement Fund 0.307 percent of the creditable compensation upon which members' contributions *under this part* are based.

(b) The Controller shall adjust the contributions required by this section within 10 days of notification by the board of the actual creditable compensation on which the contributions are based. A copy of the notification shall be transmitted to the Legislature, the Director of Finance, the Office of the Legislative Analyst, and the Commission on State Mandates. The payroll data shall be subject to audit by the Controller pursuant to Section 17558.5 of the Government Code.

SEC. 119. Section 22954 of the Education Code is amended to read:

22954. (a) In addition to any other contributions required by this part, on July 1, 1990, and on July 1 of each subsequent year, the Controller, subject to Section 24414, shall transfer, based on estimated payroll data provided by the board, the following percentages of the total of the prior year creditable compensation upon which members' contributions *under this part* are based to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund, for the purpose of funding the supplemental payments authorized under Section 24415:

(1) For the fiscal year ending June 30, 1991	0.50%
(2) For the fiscal year ending June 30, 1992	1.00%
(3) For the fiscal year ending June 30, 1993	1.50%
(4) For the fiscal year ending June 30, 1994	2.00%

(5) For the fiscal year ending June 30, 1995, and each
fiscal year thereafter 2.50%

These transfers shall be based upon estimated payroll data provided to the Director of Finance by the board and shall be adjusted in January of that same fiscal year to reflect actual payroll data.

(b) The board may deduct from the annual state contributions made pursuant to this section an amount necessary for the administrative expenses to implement Section 24415, subject to the annual Budget Act.

(c) Notwithstanding any other provision of law, it is the intent of the Legislature, in establishing the Supplemental Benefit Maintenance Program embodied in this section and Sections 22400, 24414, and 24415, to manifest a contractually enforceable promise to repay the Teachers' Retirement Fund in full, with interest, as provided in subdivision (b) of Section 24414, for all transfers or advances made from the Teachers' Retirement Fund pursuant to subdivision (a) of Section 24414 and for any funds appropriated by Item No. 1920-111-835 of the Budget Act of 1989 from the Teachers' Retirement Fund to provide purchasing power protection payments.

(d) Except as provided in subdivision (c), the Legislature reserves the right to reduce or terminate the state's contributions to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund provided by this section and to reduce or terminate the distributions required by Section 24415. It is intended that any legislative reduction or termination of the state's contributions to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund provided by this section or any reduction or termination of distributions required by Section 24415, shall be effectuated by a separate statute rather than by the annual Budget Act.

SEC. 120. Section 22956 of the Education Code is amended to read:

1 22956. Employer and state contributions made to the
 2 plan *under this part* are to finance the employer
 3 obligation for all ~~of the~~ members of the ~~plan~~ *Defined*
 4 *Benefit Program* and, therefore, shall not be credited to
 5 the individual *member* accounts ~~of the members of the~~
 6 ~~plan~~. These contributions shall be held in the reserves of
 7 the plan to finance the employers' share of the cost of all
 8 benefits payable under the plan *with respect to the*
 9 *Defined Benefit Program*. Under no circumstances shall
 10 employer contributions be allocated or awarded to
 11 individual members, their spouses, or beneficiaries.

12 *SEC. 121. Section 23003 of the Education Code is*
 13 *amended to read:*

14 23003. (a) If a county superintendent of schools or
 15 employing agency other than a school district or
 16 community college district fails to make payment of
 17 contributions as provided in Section 23002, the board may
 18 assess penalties.

19 (b) The board may charge regular interest on any
 20 delinquent contributions *under this part* until ~~they~~ *the*
 21 *contributions* have been ~~paid to~~ *received by* the system.

22 *SEC. 122. Section 23005 of the Education Code is*
 23 *amended to read:*

24 23005. Monthly reports are due in the office of the
 25 system 30 calendar days immediately following the
 26 month in which the compensation being reported *under*
 27 *this part* was earned, and are delinquent 15 calendar days
 28 immediately thereafter.

29 *SEC. 123. Section 23006 of the Education Code is*
 30 *amended to read:*

31 23006. (a) If a county superintendent of schools or
 32 employing agency other than a school district or
 33 community college district submits monthly reports late
 34 or in unacceptable form, the board may assess penalties.

35 (b) The board may assess penalties, based on the sum
 36 of the employer and employee contributions required
 37 *under this part* by the report for late or unacceptable
 38 submission of reports, at a rate of interest equal to the
 39 regular interest rate or a fee of five hundred dollars
 40 (\$500), whichever is greater.

1 *SEC. 124. Section 23101 of the Education Code is*
2 *amended to read:*

3 23101. When a member's accumulated retirement
4 contributions are refunded, as provided in Section 23100,
5 all rights to benefits pertaining to the service credit
6 represented by those contributions *under this part* are
7 forfeited. Those rights and benefits, based upon service
8 performed prior to refund, shall not be restored until the
9 member has redeposited the total of the refunded
10 accumulated retirement contributions, and paid the
11 regular interest thereon as provided in Chapter 19
12 (commencing with Section 23200).

13 *SEC. 125. Section 23102 of the Education Code is*
14 *amended to read:*

15 23102. Prior to the system paying a refund of
16 accumulated retirement contributions *under this part*,
17 the employer shall certify that the member's
18 employment has been terminated.

19 *SEC. 126. Section 23103 of the Education Code is*
20 *amended to read:*

21 23103. Refunds to a member shall be made upon
22 request of the member, or may be made without a
23 request if it appears to the board that the member's
24 employment is permanently terminated and the
25 member does not have enough *credited* service under
26 the ~~plan~~ *Defined Benefit Program* to qualify for ~~receipt~~
27 ~~of a service retirement benefit~~ *under this part*.

28 *SEC. 127. Section 23104 of the Education Code is*
29 *amended to read:*

30 23104. (a) Deposit in the United States mail of an
31 initial warrant drawn as directed by the member as a
32 refund of contributions upon termination of
33 employment, and addressed to the address directed by
34 the member, constitutes a return of the member's
35 accumulated retirement contributions *under this part*.

36 (b) If the member has elected on a form provided by
37 the system to transfer all or a specified portion of the
38 accumulated retirement contributions that are eligible
39 for direct trustee-to-trustee transfer to the trustee of a
40 qualified plan under Section 402 of the Internal Revenue

1 Code of 1986 (26 U.S.C.A. Sec. 402), deposit in the United
2 States mail of a notice that the requested transfer has
3 been made constitutes a return of the member's
4 accumulated retirement contributions *under this part*.

5 (c) For refunds not involving direct trustee-to-trustee
6 transfers, if the member returns the total gross
7 distribution amount to the system's office in Sacramento
8 within 30 days from the mailing date, the refund shall be
9 canceled and the person shall be restored as a member of
10 the ~~plan~~ *Defined Benefit Program* with all the rights and
11 privileges *under this part* restored.

12 (d) For refunds involving direct trustee-to-trustee
13 transfers, if the member returns the warrant drawn to the
14 trustee of the qualified plan and, if applicable, any
15 additional amounts necessary to equal, but in no event to
16 exceed, the total gross distribution amount to the system's
17 office in Sacramento within 30 days from the mailing
18 date, the refund shall be canceled and the person shall be
19 restored as a member of the ~~plan~~ *Defined Benefit*
20 *Program* with all the rights and privileges *under this part*
21 restored.

22 *SEC. 128. Section 23106 of the Education Code is*
23 *amended to read:*

24 23106. If a member ceases to be entitled to credit for
25 service in the ~~plan~~ *Defined Benefit Program* because the
26 member has become entitled to credit for that service in
27 another retirement system supported wholly or in part by
28 funds of the United States government, or any state
29 government or political subdivision thereof, the member
30 is entitled to a refund of the accumulated retirement
31 contributions made during the period for which he or she
32 is entitled to credit in the other retirement system.

33 *SEC. 129. Section 23107 of the Education Code is*
34 *amended to read:*

35 23107. Any member of the *Defined Benefit Program*
36 without terminating membership *in the program* and
37 upon making application on forms provided by the
38 system shall be paid a refund of the accumulated annuity
39 deposit contributions *under this part*.

1 *SEC. 130. Section 23200 of the Education Code is*
2 *amended to read:*

3 23200. (a) If a person, whose accumulated
4 retirement contributions have been refunded, again
5 becomes a member of the ~~plan~~ *Defined Benefit Program*,
6 the person may elect to redeposit those contributions
7 with regular interest from the date of refund to the date
8 of payment. If the member elects to redeposit, the
9 member shall repay all accumulated retirement
10 contributions that were previously refunded *under this*
11 *part.*

12 (b) For time prior to July 1, 1944, regular interest shall
13 be at 2 1/2 percent compounded annually.

14 (c) If a nonmember spouse, as defined in Section
15 22651, withdraws accumulated contributions in
16 accordance with Section 22661, the member may
17 redeposit a sum equal to those contributions pursuant to
18 subdivision (a), providing he or she is not receiving an
19 allowance under Chapter 26 (commencing with Section
20 24100) or Chapter 27 (commencing with Section 24201).

21 *SEC. 131. Section 23202 of the Education Code is*
22 *amended to read:*

23 23202. (a) An election pursuant to Section 23200 to
24 redeposit accumulated retirement contributions may be
25 made by a member anytime prior to the effective date of
26 the member's retirement *under this part.*

27 (b) An election to redeposit refunded accumulated
28 retirement contributions shall be considered as an
29 election to repay all accumulated retirement
30 contributions previously refunded under the provision of
31 this chapter.

32 (c) If any payment due because of this election is not
33 received at the system's office in Sacramento within 120
34 days of its due date, the election shall be canceled. Upon
35 the cancellation of election any payments made under
36 the election shall be refunded.

37 (d) If the election is cancelled, the member may at any
38 time prior to the effective date of retirement *under this*
39 *part*, again elect to redeposit accumulated retirement
40 contributions previously withdrawn or refunded, in

1 accordance with Section 23200 and all the laws, rules, and
2 regulations pertaining thereto.

3 *SEC. 132. Section 23203 of the Education Code is*
4 *amended to read:*

5 23203. Redeposit of refunded accumulated
6 retirement contributions *under this part* shall be made in
7 one sum, or in not more than 60 monthly installments,
8 provided that no installment, except the final installment,
9 shall be less than twenty-five dollars (\$25).

10 *SEC. 133. Section 23300 of the Education Code is*
11 *amended to read:*

12 23300. (a) A member of the *Defined Benefit*
13 *Program* may at any time designate a beneficiary, or
14 change the designation of a beneficiary, to receive
15 benefits payable under this part, except that no
16 beneficiary designation may be made in derogation of the
17 community property share of any nonmember spouse
18 *under this part* when any such benefit is derived, in whole
19 or in part, from community property contributions or
20 service credited during the period of marriage, unless the
21 nonmember spouse has previously obtained an
22 alternative order for distribution pursuant to Section 2610
23 of the Family Code. A designation of beneficiary shall be
24 in writing on a form prescribed by the system, executed
25 by the member, witnessed by two witnesses, neither of
26 whom may be beneficiaries. To be valid the instrument
27 shall be received in the office of the system in Sacramento
28 before the member's death.

29 (b) Except as otherwise stated in this section, the
30 designation of beneficiary, other than an option
31 beneficiary, may be revoked by the member making the
32 designation, and a different beneficiary designated in the
33 same manner as provided in this section.

34 *SEC. 134. Section 23301 of the Education Code is*
35 *amended to read:*

36 23301. A corporation, trust, eleemosynary, parochial
37 institution, or public entity may be designated as a
38 beneficiary *under this part*. However, they may not be
39 designated as option beneficiaries.

1 SEC. 135. Section 23302 of the Education Code is
2 amended to read:

3 23302. Payment under this part to a beneficiary
4 designated in the form on file in the system at the date of
5 death by a warrant drawn prior to any claim under
6 community property rights shall constitute full discharge
7 of any and all liability of the board, system, and plan by
8 reason of the member's death.

9 SEC. 136. Section 23303 of the Education Code is
10 amended to read:

11 23303. (a) If the whereabouts of the designated
12 beneficiary cannot be determined, or if the beneficiary is
13 the estate of the deceased person, the board may pay to
14 the undertaker who conducted the funeral, or to any
15 person who, or any organization that, has paid the
16 undertaker from funds owned by the person or
17 organization, in its discretion all or a portion of any
18 amount payable under ~~the plan~~ this part, but not to
19 exceed the funeral expenses of the deceased person, or
20 the portion of the expenses paid by the person or
21 organization, as evidenced by the sworn itemized
22 statement of the undertaker, person, or organization and
23 by any other documents the board may require.

24 (b) The payment shall be in full and complete
25 discharge and acquittance of the board, system, and plan
26 up to the amount paid.

27 SEC. 137. Section 23304 of the Education Code is
28 amended to read:

29 23304. If no beneficiary designation is in effect on the
30 date of death, any benefit payable under this part shall be
31 paid to the estate of the member. Payment pursuant to
32 the board's determination in good faith upon evidence
33 satisfactory to it of the existence, identity or other facts
34 relating to entitlement of persons under this section shall
35 constitute a complete discharge and release of the system
36 and plan from liability for the benefit.

37 SEC. 138. Section 23700 of the Education Code is
38 amended to read:

39 23700. (a) New survivor benefit and disability
40 retirement programs that are provided under the

1 *Defined Benefit Program* pursuant to Chapter 23
2 (commencing with Section 23850) and Chapter 26
3 (commencing with Section 24100), are effective as of
4 October 16, 1992. All members of the *Defined Benefit*
5 *Program* with an effective date of membership in the
6 *program* on or after October 16, 1992, shall be covered by
7 these survivor benefit and disability retirement programs
8 *under this part*.

9 (b) The purpose of this chapter is to set forth the
10 criteria for granting certain members of the ~~plan~~ *Defined*
11 *Benefit Program*, as defined in Section 23702, the
12 opportunity to elect to either retain coverage under the
13 current family allowance and disability allowance
14 programs pursuant to Chapter 22 (commencing with
15 Section 23800), and Chapter 25 (commencing with
16 Section 24001) or to be covered under the survivor
17 benefit and disability retirement programs.

18 *SEC. 139. Section 23800 of the Education Code is*
19 *amended to read:*

20 23800. (a) This chapter governs the eligibility,
21 benefit provisions, allowance computations, and related
22 provisions for the death benefits payable *under this part*
23 upon the death of eligible members. "Members," as used
24 in this chapter, means all members who were receiving
25 a disability allowance on October 15, 1992, and all persons
26 who were members of the plan *under this part* on
27 October 15, 1992, who were not receiving an allowance
28 and who did not elect, pursuant to Chapter 21.5
29 (commencing with Section 23700), to be covered under
30 Chapter 23 (commencing with Section 23850).

31 (b) This chapter also contains three sections related to
32 survivor benefits payable on account of deaths that
33 occurred prior to July 1, 1972.

34 *SEC. 140. Section 23801 of the Education Code is*
35 *amended to read:*

36 23801. (a) A death payment of no less than five
37 thousand dollars (\$5,000) shall be paid to the beneficiary
38 upon receipt of proof of death of a member who had one
39 or more years of credited service, at least one of which
40 had been performed subsequent to the most recent

1 refund of accumulated retirement contributions, if the
2 member died during any one of the following periods:

3 (1) While in employment for which compensation is
4 paid.

5 (2) While disabled, if the disability had been
6 continuous from the last day for which compensation had
7 been paid.

8 (3) Within four months after termination of service or
9 termination of employment, whichever occurs first.

10 (4) Within four months after termination of a
11 disability allowance if no service was performed after the
12 termination.

13 (5) Within 12 months of the last day for which
14 compensation was paid, if the member was on an
15 approved leave of absence without compensation for
16 reasons other than disability or military service.

17 (b) A death payment pursuant to this section shall not
18 be payable for the death of a member that occurs within
19 one year commencing with the effective date of
20 reinstatement from service retirement pursuant to
21 Section 24208.

22 (c) The board may adjust the death payment amount
23 following each actuarial valuation based on changes in
24 the All Urban California Consumer Price Index and adopt
25 any adjusted amount as a plan amendment.

26 (d) A beneficiary may waive his or her right to the
27 death payment in accordance with the requirements
28 established by the system.

29 SEC. 34.4. Section 23805 of the Education Code is
30 amended to read:

31 23805. A family allowance is payable in the amount
32 and to the specified persons in the following order of
33 priority:

34 (a) To the deceased member's surviving spouse who
35 has financial responsibility for at least one dependent
36 child, an amount equal to 40 percent of the member's
37 final compensation or the disabled member's projected
38 final compensation plus 10 percent of the member's final
39 compensation or the disabled member's projected final



1 compensation for each child, up to a maximum allowance
2 of 90 percent.

3 (b) If there is no surviving spouse or upon the death
4 of the surviving spouse, to each dependent child, an
5 amount equal to 10 percent of the deceased member's
6 final compensation or the disabled member's projected
7 final compensation, up to a maximum allowance of 50
8 percent. If there are more than five dependent children,
9 they shall share equally in the maximum allowance of 50
10 percent.

11 (c) To the surviving spouse at age 60 years or over if
12 there is no dependent child, an allowance equal to the
13 amount that would have been payable to the spouse as
14 beneficiary under Option 3 as provided in Section 24300,
15 computed on the member's projected final compensation
16 and projected service to normal retirement age. The
17 allowance payable under this subdivision shall be
18 increased by application of the benefit improvement
19 factor for time that elapses between the date the member
20 would have attained normal retirement age and the date
21 the family allowance under this subdivision begins to
22 accrue. The allowance calculation shall include service
23 credit for the unused sick leave that had accrued to the
24 ~~member or disabled member~~ as of the date of his or her
25 death. Eligibility for the inclusion of service credit for
26 unused sick leave credit and the calculation of that
27 service credit shall be determined pursuant to Section
28 22717.

29 (d) If there is neither surviving spouse nor dependent
30 child, to the dependent parent, age 60 years or over, an
31 allowance equal to the amount that would have been
32 payable to the dependent parent as beneficiary under
33 Option 3 as provided in Section 24300 computed on the
34 member's projected final compensation and projected
35 service to normal retirement age. The allowance
36 calculation shall include service credit for the unused sick
37 leave that had accrued to the member as of the date of his
38 or her death. Eligibility for the inclusion of service credit
39 for unused sick leave and the calculation of that service
40 credit shall be determined pursuant to Section 22717. If

1 there are two dependent parents, only one family
2 allowance shall be payable under this subdivision and that
3 allowance shall be computed on the assumption that the
4 younger parent is the option beneficiary and the
5 allowance shall be divided equally for as long as there are
6 two dependent parents. Thereafter, the full allowance
7 shall be payable to the surviving dependent parent.

8 (e) The surviving spouse or dependent parent may
9 elect to begin receiving the family allowance payable
10 under subdivision (c) or (d) immediately upon the later
11 of the death of the member or when there is no
12 dependent child, or to defer receipt of the allowance to
13 the date the surviving spouse or dependent parent attains
14 age 60 years. If allowance payments commence prior to
15 the date the surviving spouse or dependent parent attains
16 age 60 years, the allowance payable shall be actuarially
17 reduced.

18 (f) If there is no dependent child, a surviving spouse
19 or dependent parent or parents may elect, prior to
20 receipt of the first payment under subdivision (c) or (d),
21 to receive the member's accumulated retirement
22 contributions in a lump sum subject to a reduction for any
23 disability allowance or family allowance payments
24 previously made.

25 ~~SEC. 34.5.~~

26 *SEC. 141. Section 23850 of the Education Code is*
27 *amended to read:*

28 23850. This chapter governs the eligibility, benefit
29 provisions, allowance computations, and related
30 provisions for the death benefits payable *under this part*
31 upon the death of eligible members. "Member," as used
32 in this chapter, means all persons who become members
33 of the plan *under this part* on or after October 16, 1992,
34 and all persons who were members as of October 15, 1992,
35 who elected, pursuant to Chapter 21.5 (commencing
36 with Section 23700), to be covered under the death
37 benefit provisions of this chapter.

38 *SEC. 142. Section 23851 of the Education Code is*
39 *amended to read:*

1 23851. (a) A death payment of no less than twenty
2 thousand dollars (\$20,000) shall be paid to the
3 beneficiary, as designated pursuant to Section 23300,
4 upon receipt of proof of death of an active member, who
5 had one or more years of credited service, at least one of
6 which had been performed subsequent to the most
7 recent refund of accumulated retirement contributions,
8 if the member died during any one of the following
9 periods:

10 (1) While in employment for which compensation is
11 paid.

12 (2) Within four months after termination of service or
13 termination of employment, whichever occurs first.

14 (3) Within 12 months of the last day for which
15 compensation was paid, if the member was on an
16 approved leave of absence without compensation for
17 reasons other than disability or military service.

18 (b) A death payment pursuant to this section shall not
19 be payable for the death of a member that occurs within
20 one year commencing with the effective date of
21 termination of the service retirement allowance pursuant
22 to Section 24208 or during the six calendar months
23 commencing with the effective date of termination of the
24 disability retirement allowance pursuant to Section
25 24117.

26 (c) The board may adjust the death payment amount
27 following each actuarial valuation based on changes in
28 the All Urban California Consumer Price Index *and adopt*
29 *as a plan amendment any adjusted amount.*

30 (d) A designated beneficiary may waive his or her
31 right to the death payment in accordance with the
32 requirements established by the system.

33 ~~SEC. 34.7.~~

34 *SEC. 143.* Section 23880 of the Education Code is
35 amended to read:

36 23880. (a) A death payment of not less than five
37 thousand dollars (\$5,000) shall be paid to the beneficiary,
38 as designated pursuant to Section 23300, upon receipt of
39 proof of death of either of the following:

40 (1) A retired member.

1 (2) A member, if the death payment pursuant to
2 Section 23801 would have otherwise been payable or if
3 the conditions specified pursuant to paragraphs (3) and
4 (5) of subdivision (b) of Section 23854 are met, and if the
5 member's death occurs during one of the following
6 periods:

7 (A) Within one year commencing with the effective
8 date of reinstatement from service retirement pursuant
9 to Section 24208.

10 (B) Within six months commencing with the effective
11 date of reinstatement from disability retirement
12 pursuant to Section 24117.

13 (b) The board may adjust the death payment amount
14 following each actuarial valuation based on changes in
15 the All Urban California Consumer Price Index and adopt
16 as a plan amendment any adjusted amount.

17 ~~SEC. 35.~~

18 *SEC. 144. Section 23881 of the Education Code is*
19 *amended to read:*

20 23881. (a) Upon receipt of proof of death of a *retired*
21 member who retired *under this part* after June 30, 1972,
22 and of the retired member's option beneficiary, if the
23 total retirement allowance paid or payable is less than the
24 amount of the member's accumulated retirement
25 contributions at the time of retirement, the remaining
26 balance of accumulated retirement contributions shall be
27 paid to the beneficiary, if no option was elected, or to the
28 estate of the option beneficiary, if an option was elected.

29 (b) Payments provided under this section shall
30 include credited interest on the unpaid balance
31 calculated from the date the last allowance payment was
32 made to the date the balance is paid.

33 *SEC. 145. Section 24001 of the Education Code is*
34 *amended to read:*

35 24001. (a) A member may apply for a disability
36 allowance under the Defined Benefit Program if the
37 member has five or more years of credited service and if
38 all of the following requirements are met:

39 (1) At least four years were credited for actual
40 performance of service subject to coverage—~~by~~ *under* the

1 Defined Benefit Program. Credit received because of
2 workers' compensation payments shall be counted
3 toward the four-year requirement in accordance with
4 Section 22710.

5 (2) The last five years of credited service were
6 performed in this state.

7 (3) At least one year was credited for service
8 performed subsequent to the date on which the member
9 terminated the service retirement allowance under
10 Section 24208.

11 (4) At least one year was credited for service
12 performed subsequent to the most recent refund of
13 accumulated retirement contributions.

14 (5) The member has neither attained normal
15 retirement age, nor possesses sufficient unused sick leave
16 days to receive creditable compensation on account of
17 sick leave to normal retirement age.

18 (6) The member is not applying for a disability
19 allowance because of a physical or mental condition
20 known to exist at the time the most recent membership
21 in the ~~plan~~ *Defined Benefit Program* commenced and
22 remains substantially unchanged at the time of
23 application.

24 (b) Nothing in subdivision (a) shall affect the right of
25 a member to a disability allowance *under this part* if the
26 reason that the member is credited with less than four
27 years of actual service performed subject to coverage ~~by~~
28 *under* the Defined Benefit Program is due to an
29 on-the-job injury or a disease that occurred while the
30 member was employed and the four-year requirement
31 can be satisfied by credit obtained under Chapter 14
32 (commencing with Section 22800) or Chapter 14.5
33 (commencing with Section 22850) in addition to any
34 credit received from workers' compensation payments.

35 (c) Nothing in subdivision (a) shall affect the right of
36 a member *under this part* who has less than five years of
37 credited service to a disability allowance providing the
38 member has at least one year of credited California
39 service and if the reason for the disability is due to an
40 unlawful act of bodily harm committed by another

1 human being on the person of the member while the
2 member was performing his or her official duties in a
3 position subject to coverage ~~by~~ *under* the Defined
4 Benefit Program.

5 (d) A member shall not be eligible for disability under
6 the Defined Benefit Program while on a leave of absence
7 to serve as a full-time elected officer of an employee
8 organization, even if receiving service credit under
9 Section 22711.

10 ~~SEC. 36.~~

11 *SEC. 146. Section 24001.5 of the Education Code is*
12 *amended to read:*

13 24001.5. A member shall not be eligible for disability
14 under *the Defined Benefit Program* this plan while on a
15 leave of absence to serve as a full-time elected officer of
16 an employee organization, even if receiving service
17 credit under Section 22711.

18 *SEC. 147. Section 24002 of the Education Code is*
19 *amended to read:*

20 24002. The board may authorize payment of a
21 disability allowance to any member who is qualified upon
22 application *under this part* by the member, the member's
23 guardian or conservator, or the member's employer, if
24 the application is made during any one of the following
25 periods:

26 (a) While the member is employed or on a
27 compensated leave of absence.

28 (b) While the member is physically or mentally
29 incapacitated for performance of service and the
30 incapacity has been continuous from the last day of
31 service for which compensation is payable to the
32 member.

33 (c) While the member is on a leave of absence without
34 compensation, granted for reason other than mental or
35 physical incapacity for performance of service, and
36 within four months after the last day of service for which
37 compensation is payable to the member, or within 12
38 months of that date if the member is on an
39 employer-approved leave to study at an approved college
40 or university.

1 (d) Within four months after the termination of the
2 member's employment subject to coverage ~~by the plan~~
3 *under the Defined Benefit Program*, if the application
4 was not made under subdivision (b) and was not made
5 more than four months after the last day of service for
6 which compensation is payable to the member.

7 (e) A member with a dependent child who becomes
8 disabled prior to normal retirement age, and whose sick
9 leave will extend beyond normal retirement age, may be
10 awarded a disability allowance with an effective date
11 after normal retirement age, if application is filed prior to
12 attaining normal retirement age.

13 (f) The member is not applying for a disability
14 allowance because of a physical or mental condition that
15 existed at the time the most recent membership in the
16 ~~plan~~ *Defined Benefit Program* commenced and which
17 remains substantially unchanged at the time of
18 application.

19 *SEC. 148. Section 24003 of the Education Code is*
20 *amended to read:*

21 24003. (a) The member shall provide medical
22 documentation to substantiate the impairment qualifying
23 the member for the disability allowance.

24 (b) On receipt of an application for disability
25 allowance *under this part*, the system may order a
26 medical examination of a member to determine whether
27 the member is incapacitated for performance of service.
28 The medical examination shall be conducted by a
29 practicing physician, selected by the board, with
30 expertise in the member's disability and the board shall
31 pay all costs associated with the examination. The board
32 shall pay all other reasonable costs related to travel and
33 meals in accordance with the rates set for state employees
34 by the Department of Personnel Administration. If the
35 member refuses to submit to the required medical
36 examination, the application for disability allowance shall
37 be rejected. The member shall either remain in this state,
38 or return to this state at the member's own expense, to
39 undergo the initial evaluations or examinations, or the
40 application shall be rejected, unless this requirement is

1 waived by the board. If the member is too ill to be
2 examined, the system shall postpone the examination
3 until the member can be examined. The member or the
4 member's treating physician shall inform the system, in
5 writing, when the medical examination can be
6 rescheduled.

7 (c) The system may reject the disability allowance
8 application *under this part* if the member fails to provide
9 requested medical documentation to substantiate a
10 disability, as defined in Section 22126, within 45 days from
11 the date of the request or within 30 days from the time
12 that a legally designated representative is empowered to
13 act on behalf of a member who is mentally or physically
14 incapacitated.

15 (d) If the board determines that a member who has
16 applied for a disability allowance *under this part* may
17 perform service in the member's former position of
18 employment or in a comparable level position with the
19 assistance of reasonable accommodation, the board may
20 require the member to request reasonable
21 accommodation from the employer. Failure of the
22 member to request reasonable accommodation, as
23 directed by the board, may be grounds for cancellation of
24 the disability allowance application.

25 (e) If the employer fails or refuses to provide
26 reasonable accommodation, the board may require the
27 member to pursue an administrative appeal of the
28 employer's denial as a condition for receiving a disability
29 allowance *under this part*.

30 (f) The system shall inform the member of the
31 rejection or cancellation of the member's disability
32 allowance application *under this part* within 30 days after
33 that determination is made by the system.

34 *SEC. 149. Section 24004 of the Education Code is*
35 *amended to read:*

36 24004. In cases of a member's willful substance abuse
37 or if the board determines a member who qualifies for a
38 disability allowance pursuant to Section 24001 has mental,
39 physical, or vocational rehabilitation potential, the board
40 may limit the disability allowance *under this part* to a



1 period not to exceed two years from the date of approval
2 of the disability allowance. Notwithstanding Section
3 24013, the disability allowance shall terminate at the end
4 of the period granted unless an extension is granted by
5 the board.

6 *SEC. 150. Section 24005 of the Education Code is*
7 *amended to read:*

8 24005. (a) A disability allowance *under this part* shall
9 become effective upon any date designated by the
10 member, provided all of the following conditions are met:

11 (1) An application for disability allowance is filed on a
12 form provided by the system.

13 (2) The effective date is later than the last day of
14 creditable service for which compensation is payable to
15 the member.

16 (3) The effective date is no earlier than either the first
17 day of the month in which the application is received by
18 the system's office in Sacramento, or the date upon and
19 continuously after which the member is determined to
20 the satisfaction of the board to have been mentally
21 incompetent.

22 (b) If the member is employed to perform creditable
23 service subject to coverage ~~by the plan~~ *under the Defined*
24 *Benefit Program* at the time the disability allowance is
25 approved *under this part*, the member shall notify the
26 system in writing, within 90 days, of the last day on which
27 the member will perform service. If the member does not
28 respond within 90 days, or if the last day on which service
29 will be performed is more than 90 days after the date the
30 system notifies the member of approval of the disability
31 allowance, the member's application for a disability
32 allowance shall be rejected and a disability allowance
33 shall not be payable to the member.

34 *SEC. 151. Section 24006 of the Education Code is*
35 *amended to read:*

36 24006. Upon qualification for disability *under this*
37 *part*, a member shall receive an annual allowance equal
38 to 50 percent of final compensation payable in monthly
39 installments. The allowance shall be increased by 10

1 percent of final compensation for each dependent child,
2 to a maximum of four dependent children.

3 *SEC. 152. Section 24010 of the Education Code is*
4 *amended to read:*

5 24010. Allowances payable under Sections 24006 and
6 24007 shall be reduced by an amount equal to the
7 unmodified benefits paid or payable under other public
8 systems for the same impairment or impairments that
9 qualify the member for a disability allowance *under this*
10 *part.*

11 *SEC. 153. Section 24011 of the Education Code is*
12 *amended to read:*

13 24011. A member who qualifies for disability
14 allowance pursuant to this chapter because of a disabling
15 impairment that is amenable to treatment that could be
16 expected to restore the member's ability to perform
17 service in the member's former position of employment
18 or a comparable level position shall participate in a
19 treatment program prescribed by the member's primary
20 treating physician. Willful failure to initiate and continue
21 participation in the *treatment* program shall cause the
22 disability allowance to be terminated. In determining
23 whether a member has good cause for failure to follow the
24 treatment *program*, the board shall take into account
25 whether treatment would abridge the member's right to
26 the free exercise of religion or whether the member's
27 physical or mental condition has worsened, as
28 determined by the member's treating physician and
29 substantiated by medical evidence.

30 *SEC. 154. Section 24013 of the Education Code is*
31 *amended to read:*

32 24013. The board may require any member receiving
33 a disability allowance *under this part* to undergo medical
34 examination at such times as the board deems necessary.
35 The system may request the member's treating
36 physician, upon authorization by the disabled member, to
37 complete a medical reevaluation questionnaire. The
38 system shall reimburse the disabled member for all
39 reasonable costs related to completion of this
40 questionnaire in an amount not to exceed two hundred

1 fifty dollars (\$250) if the disabled member has no other
 2 health coverage that would pay the costs of completing
 3 the medical questionnaire. The board may authorize a
 4 medical examination to be conducted by the disabled
 5 member's treating source at the disabled member's
 6 expense and, in any case, may require a medical
 7 examination to be conducted by a physician selected by
 8 the board, in which event, the board shall pay all
 9 reasonable costs associated with the examination. The
 10 board shall, in scheduling medical examinations, give
 11 consideration to the interests and convenience of the
 12 disabled member. If the examination, together with other
 13 available information, shows to the satisfaction of the
 14 board that the member is no longer disabled, the
 15 disability allowance shall be terminated. Should the
 16 disabled member refuse to submit to medical
 17 examination, as provided in this section, the disability
 18 allowance shall be terminated and all rights of the
 19 disabled member to the disability allowance shall be
 20 revoked.

21 *SEC. 155. Section 24014 of the Education Code is*
 22 *amended to read:*

23 24014. A disabled member may be employed to
 24 perform creditable service *subject to coverage under the*
 25 *Defined Benefit Program*. The employment shall not
 26 cause the disability allowance to be suspended or
 27 terminated except as provided in Sections 23401, 24013,
 28 and 24015, and no deduction shall be made from the
 29 disabled member's compensation as contributions to the
 30 ~~plan~~ *Defined Benefit Program*.

31 *SEC. 156. Section 24015 of the Education Code is*
 32 *amended to read:*

33 24015. Notwithstanding Section 22132, if a person who
 34 begins to receive a disability allowance *under this part*
 35 after June 30, 1972, is employed, or is self-employed in any
 36 capacity in which his or her average earnings for any prior
 37 continuous six months amount to 66 ²/₃ percent of the
 38 indexed final compensation, the person shall be
 39 presumed capable of performing gainful employment
 40 and no longer disabled. The disability allowance shall be

1 terminated on the first day of the month following the
2 six-month period. Any allowance paid thereafter shall be
3 considered an overpayment and recovery shall be made.

4 *SEC. 157. Section 24016 of the Education Code is*
5 *amended to read:*

6 24016. (a) For any one or more months in which the
7 total of a disabled member's allowance *under this part*,
8 excluding children's portions, and earnings exceed 100
9 percent of indexed final compensation, 100 percent of the
10 amount in excess shall be considered an overpayment and
11 recovery shall be made.

12 (b) This action shall not apply to disabled members
13 who have allowances terminated under Section 24015 or
14 who are enrolled in an approved rehabilitation program.

15 *SEC. 158. Section 24017 of the Education Code is*
16 *amended to read:*

17 24017. If a person who began receiving a disability
18 allowance *under this part* after June 30, 1972, is enrolled
19 in an approved rehabilitation program and the total of the
20 disability allowance, excluding children's portions, and
21 earnings exceed 100 percent of indexed final
22 compensation, 50 percent of the amount in excess shall be
23 considered an overpayment and recovery shall be made.

24 *SEC. 159. Section 24018 of the Education Code is*
25 *amended to read:*

26 24018. When a disabled member returns to work in
27 his or her former position of employment or in a
28 comparable level position and within six months of return
29 experiences a recurrence of the original disability, that
30 can be medically substantiated, it shall be considered, for
31 the purpose of determining the duration of the disability,
32 that the condition had its onset as of the date the member
33 first became disabled. The former disability allowance
34 *under this part* shall again become payable as of the later
35 of the first day of the month in which the recurrence of
36 the disability occurred or the last day of service for which
37 compensation is payable to the member provided the
38 member complies with the provisions of Section 24003.

39 *SEC. 160. Section 24100 of the Education Code is*
40 *amended to read:*

1 24100. This chapter governs the eligibility, allowance
2 computations, and related provisions for the disability
3 retirement program. This chapter applies to all persons
4 who become members of the plan *under this part* on ~~or~~
5 *and* after October 16, 1992, all persons who become
6 members of the plan on ~~or~~ and under this part after
7 October 16, 1992, subsequent to a refund, and to all
8 members as of October 15, 1992, who elect *under this*
9 *part*, pursuant to Chapter 21.5 (commencing with
10 Section 23700), to be covered by the disability retirement
11 program set forth in this chapter.

12 *SEC. 161.* Section 24101 of the Education Code is
13 amended to read:

14 24101. (a) A member may apply for a disability
15 retirement *under this part* if the member has five or more
16 years of credited service and if all of the following
17 requirements are met:

18 (1) At least four years were credited for actual service
19 performed subject to coverage ~~by~~ *under* the Defined
20 Benefit Program. Credit received because of workers'
21 compensation payments shall be counted toward the
22 four-year requirement in accordance with Section 22710.

23 (2) The last five years of credited service were
24 performed in this state.

25 (3) At least one year (1.000) of credited service was
26 earned subsequent to the date on which the member
27 terminated the service retirement allowance under
28 Section 24208.

29 (4) At least one year (1.000) of credited service was
30 earned subsequent to the date on which the member's
31 disability allowance was terminated.

32 (5) At least one year (1.000) of credited service was
33 earned subsequent to the most recent refund of
34 accumulated retirement contributions.

35 (6) The member is not applying for a disability
36 retirement because of a physical or mental condition
37 known to exist at the time the most recent membership
38 in the Defined Benefit Program commenced and that
39 remains substantially unchanged at the time of
40 application.

1 (b) Nothing in subdivision (a) shall affect the right of
2 a member to a disability retirement if the reason that the
3 member has performed less than four years of actual
4 service is due to an on-the-job injury or a disease while in
5 employment subject to coverage by the Defined Benefit
6 Program and the four-year requirement can be satisfied
7 by credit obtained under Chapter 14 (commencing with
8 Section 22800) or Chapter 14.5 (commencing with
9 Section 22850) in addition to any credit received from
10 workers' compensation payments.

11 (c) Nothing in subdivision (a) shall affect the right of
12 a member who has less than five years of credited service
13 to a disability retirement allowance providing the
14 member has at least one year of credited California
15 service and if the reason for the disability is due to an
16 unlawful act of bodily harm committed by another
17 human being on the person of the member while the
18 member was performing his or her official duties in a
19 position subject to coverage ~~by~~ *under* the Defined
20 Benefit Program.

21 (d) A member shall not be eligible for disability
22 retirement from the Defined Benefit Program while on
23 a leave of absence to serve as a full-time elected officer of
24 an employee organization, even if receiving service
25 credit under Section 22711.

26 ~~SEC. 37.~~

27 *SEC. 162. Section 24101.5 of the Education Code is*
28 *amended to read:*

29 24101.5. A member shall not be eligible for disability
30 retirement ~~from under this plan~~ *while on a leave of*
31 *absence to serve as a full-time elected officer of an*
32 *employee organization, even if receiving service credit*
33 ~~*under pursuant to*~~ *Section 22711.*

34 *SEC. 163. Section 24102 of the Education Code is*
35 *amended to read:*

36 24102. The board may authorize payment of a
37 disability retirement allowance *under this part* to any
38 member who is qualified upon application by the
39 member, the member's guardian or conservator, or the

1 member's employer, if the application is made during any
2 one of the following periods:

3 (a) While the member is employed or on a
4 compensated leave of absence.

5 (b) While the member is physically or mentally
6 incapacitated for performance of service and the
7 incapacity has been continuous from the last day for
8 which compensation is payable to the member.

9 (c) While the member is on a leave of absence without
10 compensation, granted for reason other than mental or
11 physical incapacity for performance of service, and
12 within four months after the last day of service for which
13 compensation is payable to the member, or within 12
14 months of that date if the member was on an
15 employer-approved leave to study at an approved college
16 or university.

17 (d) Within four months after the termination of the
18 member's employment subject to coverage ~~by the plan~~
19 *under the Defined Benefit Program*, if the application
20 was not made under subdivision (b) and was not made
21 more than four months after the last day of service for
22 which compensation is payable to the member.

23 (e) The member is not applying for a disability
24 retirement allowance because of a physical or mental
25 condition that existed at the time the most recent
26 membership in the ~~plan~~ *Defined Benefit Program*
27 commenced and which remains substantially unchanged
28 at the time of application.

29 *SEC. 164. Section 24103 of the Education Code is*
30 *amended to read:*

31 24103. (a) The member shall provide medical
32 documentation substantiating the impairment qualifying
33 the member for the disability retirement *under this part*.

34 (b) On receipt of an application for disability
35 retirement *under this part*, the system may order a
36 medical examination of a member to determine whether
37 the member is incapacitated for performance of service.
38 The medical examination shall be conducted by a
39 practicing physician, selected by the board, with
40 expertise in the member's disability, and the board shall

1 pay all costs associated with the examination. The board
2 shall pay all other reasonable costs related to travel and
3 meals in accordance with the rates set for state employees
4 by the Department of Personnel Administration. If the
5 member refuses to submit to the required medical
6 examination, the application for disability retirement
7 shall be rejected. The member shall either remain in this
8 state, or return to this state at the member's own expense,
9 to undergo the initial evaluations or examinations or the
10 application shall be rejected, unless this requirement is
11 waived by the board. If the member is too ill to be
12 examined, the system shall postpone the examination
13 until the member can be examined. The member or the
14 member's treating physician shall inform the system, in
15 writing, when the medical examination can be
16 rescheduled.

17 (c) The system may reject the disability retirement
18 application *under this part* if the member fails to provide
19 requested medical documentation to substantiate a
20 disability, as defined in Section 22126, within 45 days from
21 the date of the request or within 30 days from the time
22 that a legally designated representative is empowered to
23 act on behalf of a member who is mentally or physically
24 incapacitated.

25 (d) If the board determines that a member who has
26 applied for disability retirement *under this part* may
27 perform service in the member's former position of
28 employment or in a comparable level position with the
29 assistance of reasonable accommodation, the board may
30 require the member to request reasonable
31 accommodation from the employer. Failure of the
32 member to request reasonable accommodation, as
33 directed by the board, may be grounds for cancellation of
34 the disability retirement application *under this part*.

35 (e) If the employer fails or refuses to provide
36 reasonable accommodation, the board may require the
37 member to pursue an administrative appeal of the
38 employer's denial as a condition for receiving a disability
39 retirement allowance *under this part*.



(f) The system shall inform the member of the rejection or cancellation of the member's disability retirement allowance application *under this part* within 30 days after that determination is made by the system.

SEC. 165. Section 24104 of the Education Code is amended to read:

24104. In cases of a member's willful substance abuse or if the board determines a member who qualifies for disability retirement *under this part* pursuant to this chapter has mental, physical, or vocational rehabilitation potential, the board may limit the disability retirement to a period not to exceed two years from the date of approval of the disability retirement. Notwithstanding Section 24112, the disability retirement allowance shall terminate at the end of the period granted unless an extension is granted by the board.

SEC. 166. Section 24105 of the Education Code is amended to read:

24105. (a) A disability retirement allowance *under this part* shall become effective upon any date designated by the member, provided that all of the following conditions are met:

(1) An application for disability retirement is filed on a form provided by the system.

(2) The effective date is later than the last day of service for which compensation is payable to the member.

(3) The effective date is no earlier than either the first day of the month in which the application is received at the system's office in Sacramento, or the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(b) If a member's application for disability retirement *under this part* does not contain an election of either an unmodified allowance or an allowance modified under an option and if the member subsequently submits an election, but not within the 30-day period established pursuant to Section 24301, the board shall set a benefit effective date which is no earlier than the first day of the

1 month in which the subsequent election is received by the system. If the member fails to submit an election pursuant to Section 24301 and within six months of the date the acknowledgment notice is mailed pursuant to Section 24301, the member's application for disability retirement *under this part* shall be rejected.

(c) If the member is employed to perform creditable service subject to coverage ~~by the plan~~ *under the Defined Benefit Program* at the time the disability retirement is approved, the member shall notify the system in writing, within 90 days, of the last day on which the member will perform service. If the member does not respond within 90 days, or if the last day on which service will be performed is more than 90 days after the date the system notifies the member of the approval of disability retirement, the member's application for disability retirement shall be rejected and a disability retirement allowance shall not be payable to the member.

SEC. 167. Section 24106 of the Education Code is amended to read:

24106. Upon retirement for disability pursuant to this chapter, a member *under this part* shall receive a retirement allowance that shall consist of all of the following:

(a) An annual allowance equal to 50 percent of final compensation payable in monthly installments.

(b) An additional 10 percent of final compensation for each dependent child, up to a maximum of 40 percent of final compensation. If there are more than four dependent children, they shall share equally in the maximum allowance of 40 percent. A dependent child may waive his or her right to his or her portion of the allowance in accordance with procedures established by the system.

(c) An annuity that shall be the actuarial equivalent of the accumulated annuity deposit contributions standing to the credit of the member's account on the effective date of the disability retirement.

SEC. 168. Section 24107 of the Education Code is amended to read:

1 24107. A member retired for disability *under this part*
2 may elect an option pursuant to Section 24301 to modify
3 the disability retirement allowance payable pursuant to
4 subdivision (a) of Section 24106.

5 *SEC. 169. Section 24108 of the Education Code is*
6 *amended to read:*

7 24108. A retirement allowance payable pursuant to
8 Section 24106 that includes a child's portion shall be
9 reduced when a dependent child becomes ineligible. The
10 reduction shall take into account the increases made by
11 application of the improvement factor. However, the
12 retired member's allowance *under this part* shall not be
13 less than it could have been if there had never been a
14 dependent child.

15 *SEC. 170. Section 24109 of the Education Code is*
16 *amended to read:*

17 24109. Retirement allowances payable pursuant to
18 subdivision (a) of Section 24106 shall be reduced by an
19 amount equal to the unmodified benefits paid or payable
20 under a workers' compensation program for the same
21 impairment or impairments that qualify the member for
22 a disability retirement allowance *under this part*.

23 *SEC. 171. Section 24110 of the Education Code is*
24 *amended to read:*

25 24110. A member who qualifies for disability
26 retirement *under this part* pursuant to this chapter
27 because of a disabling impairment that is amenable to
28 treatment that could be expected to restore the
29 member's ability to perform service in the member's
30 former position of employment or in a comparable level
31 position shall participate in a treatment program
32 prescribed by the member's primary treating physician.
33 Willful failure to initiate and continue participation in the
34 program shall cause the disability retirement allowance
35 to be terminated. In determining whether a member has
36 good cause for failure to follow that treatment, the board
37 shall take into account whether the treatment would
38 abridge the member's right to the free exercise of religion
39 or whether the member's physical or mental condition

1 has worsened as determined by the member's treating
2 physician and substantiated by medical evidence.

3 *SEC. 172. Section 24111 of the Education Code is*
4 *amended to read:*

5 24111. (a) A member who qualifies for disability
6 retirement *under this part* pursuant to this chapter who
7 is determined by the board to have a mental, physical, or
8 vocational rehabilitation potential that could be expected
9 to restore the member's ability to perform service in the
10 member's former position of employment or in a
11 comparable level position shall participate in an
12 appropriate rehabilitation program approved by the
13 board. The board shall pay all reasonable costs of the
14 approved program. Willful failure to initiate and continue
15 participation in the rehabilitation program shall cause the
16 disability retirement allowance *under this part* to be
17 terminated. In determining whether a member has good
18 cause for failure to participate in the program the board
19 shall take into account whether the participation would
20 abridge the member's right to the free exercise of religion
21 or whether the member's physical or mental condition
22 has worsened as determined by the member's treating
23 physician and substantiated by medical evidence.

24 (b) Any cost for the approved rehabilitation program
25 prescribed by the board shall be paid directly by the
26 system from the fund.

27 *SEC. 173. Section 24112 of the Education Code is*
28 *amended to read:*

29 24112. The board may require a member receiving a
30 disability retirement allowance *under this part* to
31 undergo medical examination at such times as the board
32 deems necessary. The system may request the member's
33 treating physician, upon authorization by the retired
34 member, to complete a medical reevaluation
35 questionnaire. The system shall reimburse the retired
36 member for all reasonable costs related to completion of
37 this questionnaire in an amount not to exceed two
38 hundred fifty dollars (\$250) if the retired member has no
39 other health coverage that would pay for the cost of
40 completing the medical questionnaire. The board may

1 authorize a medical examination to be conducted by the
2 retired member's treating source at the retired member's
3 expense and, in any case, may require a medical
4 examination to be conducted by a physician selected by
5 the board, in which event, the board shall pay all
6 reasonable costs associated with the examination. The
7 board shall, in scheduling medical examinations, give
8 consideration to the interests and convenience of the
9 retired member. If the examination, together with other
10 available information, shows to the satisfaction of the
11 board that the retired member is no longer disabled, the
12 disability retirement allowance shall be terminated.
13 Should the retired member refuse to submit to medical
14 examination, as provided in this section, the member's
15 disability retirement allowance shall be terminated and
16 all rights of the retired member to the disability
17 retirement allowance shall be revoked.

18 *SEC. 174. Section 24113 of the Education Code is*
19 *amended to read:*

20 24113. A member retired for disability *under this part*
21 may be employed to perform creditable service *subject*
22 *to coverage under the Defined Benefit Program.* The
23 employment shall not cause the disability retirement
24 allowance to be suspended or terminated, except as
25 provided in Section 24112, and no deduction shall be
26 made from the retired member's compensation as
27 contributions to the plan *under this part.*

28 *SEC. 175. Section 24114 of the Education Code is*
29 *amended to read:*

30 24114. (a) A member retired for disability *under this*
31 *part* may be employed or self-employed in any capacity,
32 notwithstanding Section 22132, but shall not make
33 contributions to the retirement fund *with respect to the*
34 *Defined Benefit Program* or accrue service credit *under*
35 *this part* based on earnings from any employment.

36 (b) A member retired for disability *under this part*
37 may earn in any one calendar year up to the limitation
38 specified in subdivision (c) without a reduction in his or
39 her disability retirement allowance.

(c) The limitation that shall apply to the earnings of a member retired for disability *under this part* shall be fifteen thousand dollars (\$15,000), in any one school year, adjusted annually by the board each July 1 by the annual amount of increase in the All Urban California Consumer Price Index using December 1989 as the base.

(d) If a member retired for disability *under this part* earns in excess of the limitation specified in subdivision (c) from all employment in any calendar year, notwithstanding Section 22132, his or her retirement allowance shall be reduced by the amount of the excess earnings. The amount of the reduction may be equal to the monthly allowance payable but shall not exceed the amount of the annual allowance payable under this part for the calendar year in which the excess compensation was earned.

(e) The earnings limitation specified in this section shall not be applicable to a member retired for disability *under this part* who is participating in an approved rehabilitation program pursuant to Section 24111.

(f) This section shall not be applicable to a member retired for disability *under this part* who began receiving a disability retirement allowance prior to October 16, 1992.

SEC. 176. Section 24116 of the Education Code is amended to read:

24116. A member retired for disability *under this part* whose last employment was in the California State University, as a member of ~~this plan~~ the Defined Benefit Program or the Public Employees' Retirement System, may serve as a member of the teaching staff of the California State University and shall be subject to the employment limitations as provided by the Public Employees' Retirement Law (Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code).

SEC. 177. Section 24117 of the Education Code is amended to read:

1 24117. (a) A member retired for disability *under this*
2 *part* may terminate the disability retirement allowance
3 upon written request to the system.

4 (b) If a member retired for disability *under this part*
5 is determined by the board to no longer be eligible to
6 receive a disability retirement allowance pursuant to this
7 chapter, the disability retirement allowance shall be
8 terminated.

9 *SEC. 178. Section 24118 of the Education Code is*
10 *amended to read:*

11 24118. (a) Upon termination of a disability
12 retirement allowance that was payable pursuant to this
13 chapter, the individual account of the member *under this*
14 *part* shall be credited with the amount of the member's
15 accumulated retirement contributions as they were on
16 the effective date of disability retirement, less the sum of
17 all payments made under subdivisions (a) and (b) of
18 Section 24106. The reduction shall not be greater than the
19 total of the accumulated retirement contributions.

20 (b) Upon the termination of a disability retirement,
21 the accumulated annuity deposit contribution account of
22 the member shall be credited with the amounts of those
23 contributions as they were on the date the annuity
24 became payable *under this part* because of that
25 retirement less the sum of all payments made pursuant to
26 subdivision (c) of Section 24106.

27 *SEC. 179. Section 24119 of the Education Code is*
28 *amended to read:*

29 24119. When a member retired for disability *under*
30 *this part* returns to work in the member's former position
31 of employment or in a comparable level position and
32 within six months of return experiences a recurrence of
33 the original disability, which can be medically
34 substantiated, it shall be considered, for the purpose of
35 determining the duration of the disability, that the
36 condition had its onset as of the date the member first
37 became disabled. The former disability retirement
38 allowance shall again become payable as of the later of the
39 first day of the month in which the recurrence of the
40 disability occurred or the last day of service for which

1 compensation is payable to the member, provided the
2 member complies with Section 24103.

3 *SEC. 180. Section 24203 of the Education Code is*
4 *amended to read:*

5 24203. (a) A member who has 30 years of credited
6 service *under this part* may retire at age 50 years or older
7 and receive an annual allowance equal to 2 percent of
8 final compensation for each year of credited service. If
9 the member has attained age 50 years, but has not
10 attained early retirement age, the allowance shall be
11 reduced by one-quarter of 1 percent for each full month
12 or fraction of a month that will elapse until the member
13 will attain early retirement age and one-half of 1 percent
14 for each full month, or fraction of a month between early
15 retirement age and normal retirement age.

16 (b) In computing the amounts described in
17 subdivision (a), the age of the member on the last day of
18 the month in which the retirement allowance begins to
19 accrue or any later date provided in Section 24204 shall be
20 used.

21 *SEC. 181. Section 24204 of the Education Code is*
22 *amended to read:*

23 24204. A service retirement allowance *under this part*
24 shall become effective upon any date designated by the
25 member, provided all of the following conditions are met:

26 (a) An application for service retirement allowance is
27 filed on a form provided by the system, that is executed
28 no earlier than six months before the effective date of
29 retirement allowance.

30 (b) The effective date is later than the last day of
31 creditable service for which compensation is payable to
32 the member.

33 (c) The effective date is no earlier than the first day of
34 the month in which the application is received at the
35 system's office in Sacramento.

36 (d) Either of the following conditions exists:

37 (1) The effective date is no earlier than one year
38 following the date on which the retirement allowance
39 was terminated under Section 24208, or subdivision (a) of
40 Section 24117.



(2) The effective date is no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

SEC. 182. Section 24205 of the Education Code is amended to read:

24205. (a) The board shall, in consultation with members, develop, adopt, and implement an additional early retirement alternative *under this part* that will allow a member to receive a minimum retirement allowance prior to normal retirement age if the member has at least attained early retirement age. Under the alternative, the member shall continue to receive the minimum retirement allowance past normal retirement age until the total amount paid prior to normal retirement age equals the difference between the minimum retirement allowance and the retirement allowance that would have been paid to the member under Section 24202 or 24203, whichever is applicable, at normal retirement age, and thereafter the service retirement allowance for normal retirement age shall be paid. The board shall determine the age past normal retirement at which the increase will be made by determining how long the minimum retirement allowance would have to be paid beyond age 60 years in order for the amount paid prior to age 60 years to equal the difference between the minimum retirement allowance and the allowance that would have been paid to the member under service retirement at normal retirement age. The board shall integrate the early retirement alternative adopted under this section with the other early retirement alternatives that a member may elect under this chapter.

(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods which, in the aggregate, are reasonable and which, in combination, offer the actuary's best estimate of anticipated experience under the ~~plan~~ *Defined Benefit Program*.

1 (c) The additional employer contributions required, if
2 any, under this section shall be computed as a level
3 percentage of creditable compensation. The additional
4 contribution rate required, if any, shall not be less than
5 the sum of (1) the actuarial normal cost, plus (2) the
6 additional contribution required to amortize the increase
7 in accrued liability attributable to benefits elected under
8 this section over a period of not more than 30 years from
9 January 1, 1979.

10 *SEC. 183. Section 24206 of the Education Code is*
11 *amended to read:*

12 24206. The minimum unmodified allowance,
13 exclusive of annuities from accumulated annuity deposit
14 contributions payable for service retirement *under this*
15 *part*, shall not be less than ten dollars (\$10) per month
16 multiplied by the years of credited service. This
17 guaranteed amount shall be reduced by the amount of an
18 unmodified allowance payable from a local system based
19 on service credited ~~by this system~~ *under this part*. If the
20 retirement is effective at less than age 60 years this
21 allowance shall be reduced by one-half of 1 percent for
22 each full month or fraction of a month that will elapse
23 until the member would have reached age 60 years.

24 *SEC. 184. Section 24207 of the Education Code is*
25 *amended to read:*

26 24207. If a retired member terminates a service
27 retirement allowance and subsequently retires *under this*
28 *part*, the minimum retirement allowance shall be the
29 allowance provided by Section 24206.

30 *SEC. 185. Section 24208 of the Education Code is*
31 *amended to read:*

32 24208. A member retired for service *under this part*
33 may terminate the retirement allowance upon written
34 request to the system.

35 *SEC. 186. Section 24209 of the Education Code is*
36 *amended to read:*

37 24209. Upon retirement for service *under this part*
38 following termination of a prior service retirement, the
39 member shall receive a service retirement allowance
40 equal to the sum of both of the following:

1 (a) An amount equal to the monthly allowance the
2 member was receiving immediately preceding the most
3 recent termination of retirement allowance, exclusive of
4 any amounts payable pursuant to Section 22714 or 22715,
5 increased by the improvement factor that would have
6 been applied to the allowance if the member had not
7 terminated the retirement allowance.

8 (b) An amount calculated pursuant to Section 24202,
9 24203, or 24206 on service credited subsequent to the most
10 recent termination of retirement allowance, the
11 member's age at retirement, and final compensation.

12 *SEC. 187. Section 24210 of the Education Code is*
13 *amended to read:*

14 24210. Upon retirement for service *under this part*
15 following a prior disability retirement granted pursuant
16 to Chapter 26 (commencing with Section 24100) that was
17 terminated, the member shall receive a service
18 retirement allowance calculated pursuant to Section
19 24202, 24203, or 24206 and equal to the sum of both of the
20 following:

21 (a) An amount based on service credit accrued prior
22 to the effective date of the disability retirement, the
23 member's age as of the effective date of the service
24 retirement, and indexed final compensation to the
25 effective date of the service retirement.

26 (b) An amount based on the service credit accrued
27 after termination of the disability retirement, the
28 member's age as of the effective date of service
29 retirement, and final compensation.

30 *SEC. 188. Section 24211 of the Education Code is*
31 *amended to read:*

32 24211. When a member who has been granted a
33 disability allowance *under this part* after June 30, 1972,
34 returns to employment subject to coverage ~~by the plan~~
35 *under the Defined Benefit Program* and performs:

36 (a) Less than three years of creditable service after
37 termination of the disability allowance, the member shall
38 receive a retirement allowance which is the sum of the
39 allowance calculated on service credit accrued after the
40 termination date of the disability allowance, the age of

1 the member on the last day of the month in which the
2 retirement allowance begins to accrue, and final
3 compensation using compensation earnable and
4 projected final compensation, plus the greater of either
5 of the following:

6 (1) A service retirement allowance calculated on
7 service credit accrued as of the effective date of the
8 disability allowance, the age of the member on the last
9 day of the month in which the retirement allowance
10 begins to accrue, and projected final compensation to the
11 termination date of the disability allowance.

12 (2) The disability allowance the member was receiving
13 immediately prior to termination of that allowance,
14 excluding children's portions.

15 (b) Three or more years of creditable service after
16 termination of the disability allowance, the member shall
17 receive a retirement allowance that is the greater of the
18 following:

19 (1) A service retirement allowance calculated on all
20 actual and projected service, the age of the member on
21 the last day of the month in which the retirement
22 allowance begins to accrue, and final compensation using
23 compensation earnable, or projected final compensation,
24 or a combination of both.

25 (2) The disability allowance the member was
26 receiving immediately prior to termination of that
27 allowance, excluding children's portions.

28 *SEC. 189. Section 24212 of the Education Code is*
29 *amended to read:*

30 24212. If a disability allowance granted *under this part*
31 after June 30, 1972, is terminated for reasons other than
32 those specified in Section 24213 and the member does not
33 return to employment subject to coverage by the plan,
34 the service retirement allowance, when payable, shall be
35 based on projected service, projected final compensation,
36 and the age of the member on the last day of the month
37 in which the retirement allowance begins to accrue. The
38 allowance payable under this section, excluding annuities
39 payable from accumulated annuity deposit contributions,

1 shall not be greater than the terminated disability
2 allowance excluding children's portions.

3 *SEC. 190. Section 24213 of the Education Code is*
4 *amended to read:*

5 24213. (a) When a member who has been granted a
6 disability allowance *under this part* after June 30, 1972,
7 attains normal retirement age, or at a later date when
8 there is no dependent child, the disability allowance shall
9 be terminated and the member shall be eligible for
10 service retirement. The retirement allowance shall be
11 calculated on the projected final compensation and
12 projected service to normal retirement age. The
13 allowance payable under this section, excluding annuities
14 payable from accumulated annuity deposit contributions,
15 shall not be greater than the terminated disability
16 allowance.

17 (b) Upon retirement, the member may elect to
18 modify the service retirement allowance payable in
19 accordance with any option provided under this part.

20 *SEC. 191. Section 24214 of the Education Code is*
21 *amended to read:*

22 24214. (a) A member retired for service *under this*
23 *part* may perform the activities identified in paragraphs
24 (1) to (9), inclusive, of subdivision (a), or subdivision (b),
25 of Section 22119.5 as an employee of an employer, as an
26 employee of a third party, or as an independent
27 contractor within the California public school system, but
28 the member shall not make contributions to the
29 retirement fund or accrue service credit based on
30 compensation earned from that service.

31 (b) The rate of pay for service performed by a
32 member retired for service *under this part* as an
33 employee of the employer shall not be less than the
34 minimum, nor exceed that paid by the employer to other
35 employees performing comparable duties.

36 (c) A member retired for service *under this part* shall
37 not be required to reinstate for performing the activities
38 identified in paragraphs (1) to (9), inclusive, of
39 subdivision (a), or subdivision (b), of Section 22119.5, as
40 an employee of an employer, as an employee of a third

1 party, or as an independent contractor within the
2 California public school system.

3 (d) A member retired for service *under this part* may
4 earn compensation for performing activities identified in
5 paragraphs (1) to (9), inclusive, of subdivision (a), or
6 subdivision (b), of Section 22119.5 in any one school year
7 up to the limitation specified in subdivision (f) as an
8 employee of an employer, as an employee of a third party,
9 or an independent contractor, within the California
10 public school system, without a reduction in his or her
11 retirement allowance.

12 (e) The postretirement compensation limitation
13 provisions set forth in this section shall not be applicable
14 to compensation earned for the performance of the
15 activities described in subdivision (a) for which the
16 employer is not eligible to receive state apportionment or
17 to compensation that is not creditable pursuant to Section
18 22119.2.

19 (f) The limitation that shall apply to the compensation
20 for performance of the activities identified in paragraphs
21 (1) to (9), inclusive, of subdivision (a), or subdivision (b),
22 of Section 22119.5 by a member retired for service *under*
23 *this part* either as an employee of an employer, an
24 employee of a third party, or as an independent
25 contractor, shall be fifteen thousand dollars (\$15,000), in
26 any one school year, adjusted annually by the board each
27 July 1 by the annual amount of increase in the All Urban
28 California Consumer Price Index using December 1989 as
29 the base.

30 (g) If a member retired for service *under this part*
31 earns compensation for performing activities identified
32 in paragraphs (1) to (9), inclusive, of subdivision (a), or
33 subdivision (b), of Section 22119.5 in excess of the
34 limitation specified in subdivision (f), as an employee of
35 an employer, as an employee of a third party, or as an
36 independent contractor, within the California public
37 school system, the member's retirement allowance shall
38 be reduced by the amount of the excess compensation.
39 The amount of the reduction may be equal to the monthly
40 allowance payable but shall not exceed the amount of the

1 annual allowance payable under this part for the fiscal
2 year in which the excess compensation was earned.

3 (h) The amendments to this section enacted during
4 the 1995–96 Regular Session shall be deemed to have
5 become operative on July 1, 1996.

6 ~~SEC. 37.5.~~

7 *SEC. 192. Section 24215 of the Education Code is*
8 *amended to read:*

9 24215. A member retired for service *under this part*
10 whose last employment was in the California State
11 University, as a member of ~~this plan~~ *the Defined Benefit*
12 *Program* or the Public Employees' Retirement System,
13 may serve as a member of the teaching staff of the
14 California State University and shall be subject to the
15 employment limitations as provided by the Public
16 Employees' Retirement Law (Part 3 (commencing with
17 Section 20000) of Division 5 of Title 2 of the Government
18 Code).

19 *SEC. 193. Section 24216 of the Education Code is*
20 *amended to read:*

21 24216. (a) (1) A member retired for service *under*
22 *this part* who is appointed as a trustee or administrator by
23 the Superintendent of Public Instruction pursuant to
24 Section 41320.1, or a member retired for service who is
25 assigned by a county superintendent of schools pursuant
26 to Article 2 (commencing with Section 42120) of Chapter
27 6 of Part 24, shall be exempt from subdivisions (d), (e),
28 and (f) of Section 24214 for a maximum period of two
29 years.

30 (2) The period of exemption shall commence on the
31 date the member retired for service is appointed or
32 assigned and shall end no more than two calendar years
33 from that date, after which the limitation specified in
34 subdivisions (d), (e), and (f) of Section 24214 shall apply.

35 (3) An exemption under this subdivision shall be
36 granted by the system providing that the Superintendent
37 of Public Instruction or the county superintendent of
38 schools submits documentation required by the system to
39 substantiate the eligibility of the member retired for
40 service for an exemption under this subdivision.

1 (b) (1) A member retired for service *under this part*
2 who is employed by an employer to perform creditable
3 service in an emergency situation to fill a vacant
4 administrative position requiring highly specialized skills
5 shall be exempt from the provisions of subdivisions (d),
6 (e) and (f) of Section 24214 for creditable service
7 performed up to one-half of the full-time equivalent for
8 that position, if the vacancy occurred due to
9 circumstances beyond the control of the employer. The
10 limitation specified in subdivisions (d), (e), and (f) of
11 Section 24214 shall apply to creditable service performed
12 beyond the specified exemption.

13 (2) An exemption under this subdivision shall be
14 granted by the system subject to the following conditions:

15 (A) The recruitment process to fill the vacancy on a
16 permanent basis is expected to extend over several
17 months.

18 (B) The employment is reported in a public meeting
19 of the governing body of the employer.

20 (C) The employer submits documentation required
21 by the system to substantiate the eligibility of the
22 member retired for service for an exemption under this
23 subdivision.

24 (c) This section shall not apply to any person who has
25 received additional service credit pursuant to Section
26 22715 or 22716.

27 (d) A person who has received additional service
28 credit pursuant to Section 22714 shall be ineligible for one
29 year from the effective date of retirement for the
30 exemption provided in this section for service performed
31 in the district from which he or she retired.

32 (e) This section shall become operative on July 1, 1995,
33 and shall remain in effect only until July 1, 2003, and as of
34 that date is repealed, unless a later enacted statute, which
35 is enacted before July 1, 2003, deletes or extends that date.

36 ~~SEC. 38.~~

37 *SEC. 194.* Section 24216.5 of the Education Code is
38 amended to read:

39 24216.5. (a) The compensation earned by a member
40 who retired for service *under this part* shall be exempt

1 from subdivisions (d), (f), and (g) of Section 24214, if all
2 of the following conditions are met:

3 (1) The member retired for service with an effective
4 date on or before 1, ~~1996~~ 1998.

5 (2) The member retired for service is employed by a
6 school district to provide:

7 (A) Direct classroom instruction to students in newly
8 created grades kindergarten through 3; or

9 (B) Is temporarily filling a position in grades 4 through
10 12 that was vacated due to a teacher transferring to a
11 classroom in grades kindergarten through 3 within the
12 same district that was created to meet the objectives of
13 the Class Size Reduction Program set forth in Chapter
14 6.10 (commencing with Section 52120) of Part 28.

15 (3) All members retired for service whose
16 employment with a school district meets the conditions
17 specified in this section shall be treated as a distinct class
18 of temporary employees within the existing bargaining
19 unit whose service shall not be included in computing the
20 service required as a prerequisite to attainment of or
21 eligibility for classification as a permanent employee of a
22 school district. The compensation for service performed
23 by this class of employees shall be established in
24 accordance with subdivision (b) of Section 24214 and
25 agreed to in the collective bargaining agreement
26 between the employing school district and the exclusive
27 representative for the existing bargaining unit within
28 which these temporary employees of the school district
29 are treated as a distinct class.

30 (4) The employing school district submits
31 documentation required by the system to substantiate
32 the eligibility of the temporary employment of a member
33 retired for service for the exemption under this
34 subdivision.

35 (b) A school district that employs a member retired
36 for service pursuant to this section shall maintain
37 accurate records of the retired member's compensation
38 earned and shall report that compensation monthly to the
39 system regardless of the method of payment or the source
40 of funds from which the compensation is paid.

1 (c) Upon written request to the system, a member
2 who retired for service *under this part* with an effective
3 date on or before July 1, 1996, and who, between July 1,
4 1996, and 60 days following the effective date of this
5 section, terminated his or her service retirement
6 allowance and returned to employment that qualifies for
7 the exemption specified in subdivision (a) may cancel his
8 or her reinstatement and return to status as a member
9 retired for service as if the service retirement allowance
10 had not been terminated.

11 (d) This section shall not apply to the compensation
12 earned for creditable service performed by a member
13 retired for service for a county office of education or a
14 community college district.

15 (e) This section shall become operative on July 1, 1996,
16 and shall remain in effect only until July 1, ~~1999~~ 2002, and
17 as of that date is repealed unless a later enacted statute
18 which is enacted before July 1, ~~1999~~ 2002, deletes or
19 extends that date.

20 ~~SEC. 39. Section 24216.8 is added to the Education~~
21 ~~Code, to read:~~

22 ~~24216.8. (a) The compensation earned by a member~~
23 ~~who retired for service shall be exempt from subdivisions~~
24 ~~(d), (f), and (g) of Section 24214, if all of the following~~
25 ~~conditions are met:~~

26 ~~(1) The member retired for service with an effective~~
27 ~~date on or before January 1, 1999.~~

28 ~~(2) The member retired for service is employed by a~~
29 ~~school district to provide:~~

30 ~~(A) Direct classroom instruction to students in newly~~
31 ~~created grades kindergarten through 3; or~~

32 ~~(B) Is temporarily filling a position in grades 4 through~~
33 ~~12 that was vacated due to a teacher transferring to a~~
34 ~~classroom in grades kindergarten through 3 within the~~
35 ~~same district that was created to meet the objectives of~~
36 ~~the Class Size Reduction Program set forth in Chapter~~
37 ~~6.10 (commencing with Section 52120) of Part 28.~~

38 ~~(3) All members retired for service whose~~
39 ~~employment with a school district meets the conditions~~
40 ~~specified in this section shall be treated as a distinct class~~

1 of temporary employees within the existing bargaining
2 unit whose service shall not be included in computing the
3 service required as a prerequisite to attainment of or
4 eligibility for classification as a permanent employee of a
5 school district. The compensation for service performed
6 by this class of employees shall be established in
7 accordance with subdivision (b) of Section 24214 and
8 agreed to in the collective bargaining agreement
9 between the employing school district and the exclusive
10 representative for the existing bargaining unit within
11 which these temporary employees of the school district
12 are treated as a distinct class.

13 (4) The employing school district submits
14 documentation required by the system to substantiate
15 the eligibility of the temporary employment of a member
16 retired for service for the exemption under this
17 subdivision.

18 (b) A school district that employs a member retired
19 for service pursuant to this section shall maintain
20 accurate records of the retired member's compensation
21 earned and shall report that compensation monthly to the
22 system regardless of the method of payment or the source
23 of funds from which the compensation is paid.

24 (c) This section shall not apply to the compensation
25 earned for creditable service performed by a member
26 retired for service for a county office of education or a
27 community college district.

28 (d) This section shall become operative on July 1, 1999,
29 and shall remain in effect only until July 1, 2002, and as of
30 that date is repealed unless a later enacted statute which
31 is enacted before July 1, 2002, deletes or extends that date.

32 ~~SEC. 40.~~

33 *SEC. 195. Section 24217 of the Education Code is*
34 *amended to read:*

35 24217. A person who was a member *under this part* on
36 June 30, 1972, and had five or more years of service and
37 who had attained age 55 years, shall have the option of
38 receiving the allowance payable under Section 14245, as
39 it read on that date in lieu of the allowance payable under
40 subdivision (a) of Section 24202.

1 *SEC. 196. Section 24301 of the Education Code is*
2 *amended to read:*

3 24301. (a) A member who has filed an application
4 *under this part* for a disability retirement pursuant to
5 Chapter 26 (commencing with Section 24100) may elect,
6 as provided in Section 24300 to receive an actuarially
7 modified disability retirement allowance. After receipt of
8 a disability retirement application from a member, the
9 board shall mail an acknowledgment notice to the
10 member. A 30-day period shall commence with the
11 mailing of the acknowledgment, during which time the
12 member may change the option election made on the
13 disability retirement application.

14 (b) The option shall become effective on the effective
15 date of the disability retirement allowance. The
16 modification of the disability retirement allowance under
17 the option elected shall be based on the ages of the retired
18 member and the designated option beneficiary as of the
19 effective date of the disability retirement. The
20 modification shall be applicable only to the disability
21 retirement allowance payable pursuant to subdivision (a)
22 of Section 24106.

23 (c) The elected option may not be revoked or changed
24 after the later of the effective date of the disability
25 retirement allowance or 30 days after the mailing of the
26 acknowledgment notice pursuant to this section.

27 (d) If a member dies prior to electing an unmodified
28 allowance or an option, the death benefits shall be
29 payable under Chapter 23 (commencing with Section
30 23850), regardless of whether the disability retirement
31 application is or would have been approved.

32 *SEC. 197. Section 24308 of the Education Code is*
33 *amended to read:*

34 24308. (a) The election of an option as provided in
35 Section 24307 shall preclude the payment of a family
36 allowance to any beneficiary *under this part*.

37 (b) The preretirement election of an option made by
38 the member pursuant to Section 24307 shall be voided by
39 the board as of the effective date of an approved disability
40 retirement *under this part*. Members receiving a

1 disability retirement allowance pursuant to Chapter 26
2 (commencing with Section 24100) may not file an
3 election of option as provided in Section 24307.

4 (c) The election of an option as provided in Section
5 24307 shall preclude the payment of a survivor benefit
6 allowance pursuant to Chapter 23 (commencing with
7 Section 23850) and shall preclude the payment of the
8 remaining balance of the member's accumulated
9 retirement contributions prior to the death of the option
10 beneficiary.

11 *SEC. 198. Section 24309 of the Education Code is*
12 *amended to read:*

13 24309. (a) A member may cancel the election of an
14 option made pursuant to Section 24307, providing written
15 cancellation is received by the board on or before the day
16 preceding the effective date of retirement *under this part*
17 or during the period between termination of the
18 retirement allowance pursuant to Section 24208 or 24117
19 and the effective date of the subsequent retirement
20 *under this part*. Regardless of how the member elects to
21 receive his or her retirement allowance, that allowance
22 shall be reduced by an amount determined by the board
23 to be the actuarial equivalent of the coverage the
24 member received as a result of the preretirement
25 election and that does not result in any adverse funding
26 to the plan.

27 (b) If the option beneficiary designated in the
28 preretirement election of an option pursuant to Section
29 24307 dies prior to the member's retirement, the
30 preretirement election shall be canceled as of the day
31 following the date of death and the member's subsequent
32 retirement allowance *under this part* shall be subject to
33 the allowance reduction prescribed in this section.

34 *SEC. 199. Section 24311 of the Education Code is*
35 *amended to read:*

36 24311. (a) A member who has a preretirement
37 election of an option in effect on December 31, 1990, may
38 change his or her preretirement election of Option 2,
39 Option 3, Option 4, or Option 5, to either Option 6 or
40 Option 7 without the allowance reduction prescribed in

1 Sections 24309 and 24310, provided the change is made on
2 or after January 1, 1991, and prior to the earlier of January
3 1, 1992, or the member's retirement *under this part*.

4 (b) If the member elects to change his or her option
5 under this section, then the member shall retain the same
6 option beneficiary as named in the prior preretirement
7 election. The election to change the preretirement
8 election under this section shall be void if not received in
9 the system's office in Sacramento at least 30 days prior to
10 the death of the option beneficiary.

11 *SEC. 200. Section 24400 of the Education Code is*
12 *amended to read:*

13 24400. The Legislature recognizes that inflation
14 erodes the purchasing power of benefits paid under the
15 plan *under this part*. It is the intent of the Legislature to
16 understand the degree of erosion of these benefits. The
17 board shall report to the Governor and Legislature no
18 later than April 1 of each year on the extent to which
19 inflation has eroded the purchasing power of benefits
20 provided under the ~~plan~~ *Defined Benefit Program*. The
21 board shall indicate the amount of supplementary
22 increases in retirement allowances required to preserve
23 the purchasing power of benefits provided ~~under the~~
24 ~~plan~~ *by the Defined Benefit Program*. The board shall
25 also determine and report on the increases.

26 *SEC. 201. Section 24417 of the Education Code is*
27 *amended to read:*

28 24417. (a) The proceeds of an auxiliary
29 Supplemental Benefit Maintenance Account shall be
30 distributed annually in quarterly supplemental
31 payments, commencing when funds in the Supplemental
32 Benefit Maintenance Account are insufficient to support
33 75 percent, to retired members, disabled members, and
34 beneficiaries *under this part*. The amount available for
35 distribution in any fiscal year shall not exceed the amount
36 necessary to restore purchasing power up to 75 percent
37 of the purchasing power of the initial monthly allowance
38 after the application of all allowance increases authorized
39 by this part, including those specified in Section 24412 and
40 Section 24415.

(b) The net revenues to be distributed shall be allocated among those retired members, disabled members, and beneficiaries whose allowances, after sequentially applying the annual improvement factor as defined in Sections 22140 and 22141, and the annual supplemental payment as defined in Section 24412 and Section 24415, have the lowest purchasing power percentage. The purchasing power calculation for each individual shall be based on the change in the All Urban California Consumer Price Index between June of the calendar year of benefit effective date and June of the fiscal year preceding the fiscal year of distribution.

(c) The allowance increase shall not be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions.

(d) The benefits provided by subdivision (b) are not cumulative, nor part of the base allowance, and will be payable only to the extent that funds are available from the Supplemental Benefit Maintenance Account and the auxiliary Supplemental Benefit Maintenance Account. The board shall inform each recipient of the contents of this subdivision.

(e) The distributions authorized by this section are not vested and shall not be included in the base allowance for purposes of calculating the annual improvement defined by Section 22140 and 22141.

SEC. 202. Section 24505 of the Education Code is amended to read:

24505. Actions brought by the board or its agent under contract pursuant to this chapter shall be commenced within three years after the liability of the system to pay benefits under the plan is fixed. Liability of the plan is fixed at the time the board approves the payment of benefits under this plan.

~~SEC. 41.~~

SEC. 203. Section 24600 of the Education Code, as added by Section 36 of Chapter 1165 of the Statutes of 1996, is amended to read:

1 24600. (a) A retirement allowance *under this part*
2 begins to accrue on the effective date of the member's
3 retirement and ceases on the earlier of the day of the
4 member's death or the day on which the retirement
5 allowance is terminated for a reason other than the
6 member's death.

7 (b) A retirement allowance payable to an option
8 beneficiary *under this part* begins to accrue on the day
9 following the day of the retired member's death and
10 ceases on the day of the option beneficiary's death.

11 (c) A disability allowance *under this part* begins to
12 accrue on the effective date of the member's disability
13 allowance and ceases on the earlier of the day of the
14 member's death or the day on which the disability
15 allowance terminated for a reason other than the
16 member's death.

17 (d) A family allowance *under this part* begins to
18 accrue on the day following the day of the member's
19 death and ceases on the day of the event that terminates
20 eligibility for the allowance.

21 (e) A survivor benefit allowance payable to a
22 surviving spouse *under this part* pursuant to Chapter 23
23 (commencing with Section 23850) begins to accrue on
24 the day the member would have attained 60 years of age
25 or on the day following the day of the member's death, as
26 elected by the surviving spouse, and ceases on the day of
27 the surviving spouse's death.

28 (f) A child's portion of an allowance *under this part*
29 begins to accrue on the effective date of that allowance
30 and ceases on the earlier of either the termination of the
31 child's eligibility or the termination of the allowance.

32 (1) Until January 1, 2002, a person who on December
33 31, 1996, is between 18 and 22 years of age and who is
34 eligible as a full-time student to receive a child's portion
35 of an allowance shall continue to be eligible for a child's
36 portion until the person attains 22 years of age or until the
37 first day of the month following the end of the school
38 quarter or semester that is in progress in the month the
39 person attains 22 years of age provided prior verification
40 of full-time student status is received by the board. If

1 verification is not received by the board prior to the date
2 the person attains 22 years of age, the allowance or the
3 child's portion of the allowance shall cease on the day the
4 full-time student attains 22 years of age.

5 (2) Notwithstanding subdivision (e) of Section 22123,
6 until January 1, 2002, a person who on December 31, 1996,
7 is between 18 and 22 years of age and who is not eligible
8 as a full-time student to receive a child's portion of an
9 allowance, may return to school on a full-time basis on or
10 after January 1, 1997, and become eligible for a child's
11 portion from the date of return to full-time student status
12 until 22 years of age or until the first day of the month
13 following the end of the school quarter or semester that
14 is in progress in the month the person attains 22 years of
15 age provided prior verification of full-time student status
16 is received by the board. If verification is not received by
17 the board prior to the date the person attains 22 years of
18 age, the allowance or the child's portion of the allowance
19 shall cease on the day the full-time student attains 22 years
20 of age. No benefits shall be payable under this paragraph
21 for a person who does not return to school as a full-time
22 student prior to attaining 22 years of age.

23 (g) Supplemental payments issued *under this part*
24 pursuant to Sections 24701, 24702, and 24703 to retired
25 members, disabled members, and beneficiaries shall
26 begin to accrue pursuant to Sections 24701, 24702, and
27 24703 and shall cease to accrue as of the termination dates
28 specified in subdivisions (a) to (f), inclusive, of this
29 section.

30 (h) Notwithstanding any other provision of this part or
31 other law, distributions from the plan ~~by the system~~ *with*
32 *respect to the Defined Benefit Program* shall be made in
33 accordance with Section 401(a)(9) of the Internal
34 Revenue Code of 1986, as amended, including the
35 incidental death benefit requirements of Section
36 401(a)(9)(G) and the regulations thereunder, and the
37 required beginning date of benefit payments that
38 represent the entire interest of the member in the plan
39 *with respect to the Defined Benefit Program* shall be as
40 follows:

(1) In the case of a refund of contributions, as described in Chapter 12 (commencing with Section 23100), not later than April 1 of the calendar year following the later of both of the following:

(A) The calendar year in which the member attains age 70¹/₂ years.

(B) The calendar year in which the member terminates employment within the meaning of subdivision (i).

(2) In the case of a retirement allowance, as defined in Section 22150, beginning not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains age 70¹/₂ years; or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i), to continue over the life of the member or the lives of the member and the member's option beneficiary, or over the life expectancy of the member or the life expectancy of the member and the member's option beneficiary.

(i) For purposes of subdivision (h), the phrase "terminates employment" means the later of the termination of employment subject to coverage ~~by the plan~~ *under the Defined Benefit Program* or the termination of employment in a position requiring or permitting membership in another public retirement system in this state the compensation from which may be included in final compensation under Section 22127.

(j) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2002, deletes or extends that date.

SEC. 204. Section 24600 of the Education Code, as added by Section 36.5 of Chapter 1165 of the Statutes of 1996, is amended to read:

24600. (a) A retirement allowance *under this part* begins to accrue on the effective date of the member's retirement and ceases on the earlier of the day of the member's death or the day on which the retirement allowance terminated for a reason other than the member's death.

(b) A retirement allowance payable to an option beneficiary *under this part* begins to accrue on the day following the day of the retired member's death and ceases on the day of the option beneficiary's death.

(c) A disability allowance *under this part* begins to accrue on the effective date of the member's disability and ceases on the earlier of the day of the member's death or the day on which the disability allowance terminated for a reason other than the member's death.

(d) A family allowance *under this part* begins to accrue on the day following the day of the member's death and ceases on the day of the event that terminates eligibility for the allowance.

(e) A survivor benefit allowance payable to a surviving spouse *under this part* pursuant to Chapter 23 (commencing with Section 23850) begins to accrue on the day the member would have attained 60 years of age or on the day following the day of the member's death, as elected by the surviving spouse, and ceases on the day of the surviving spouse's death.

(f) A child's portion of an allowance *under this part* begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance. An allowance payable because of a full-time student shall terminate on the first day of the month following the end of the school quarter or semester that is in progress in the month the full-time student attains 22 years of age. Any adjustment to an allowance because of a full-time student's periods of nonattendance shall be made as follows: the allowance shall cease on the first day of the month in which return to full-time attendance was required and shall begin to accrue again on the first day of the month in which full-time attendance resumes.

(g) Supplemental payments issued *under this part* pursuant to Sections 24701, 24702, and 24703 to retired members, disabled members, and beneficiaries shall begin to accrue pursuant to Sections 24701, 24702, and 24703 and shall cease to accrue as of the termination dates specified in subdivisions (a) to (f), inclusive.

1 (h) Notwithstanding any other provision of this part or
2 other law, distributions from the plan ~~by the system with~~
3 *respect to the Defined Benefit Program* shall be made in
4 accordance with Section 401(a)(9) of the Internal
5 Revenue Code of 1986, as amended, including the
6 incidental death benefit requirements of Section
7 401(a)(9)(G) and the regulations thereunder, and the
8 required beginning date of benefit payments that
9 represent the entire interest of the member in the plan
10 *with respect to the Defined Benefit Program* shall be as
11 follows:

12 (1) In the case of a refund of contributions, as
13 described in Chapter 12 (commencing with Section
14 23100) of this part, not later than April 1 of the calendar
15 year following the later of (A) the calendar year in which
16 the member attains 70 $\frac{1}{2}$ years of age or (B) the calendar
17 year in which the member terminates employment
18 within the meaning of subdivision (i).

19 (2) In the case of a retirement allowance, as defined in
20 Section 22150, beginning not later than April 1 of the
21 calendar year following the later of (A) the calendar year
22 in which the member attains 70 $\frac{1}{2}$ years of age or (B) the
23 calendar year in which the member terminates
24 employment within the meaning of subdivision (i), to
25 continue over the life of the member or the lives of the
26 member and the member's option beneficiary, or over
27 the life expectancy of the member or the life expectancy
28 of the member and the member's option beneficiary.

29 (i) For purposes of subdivision (h), "terminates
30 employment" means the later of the termination of
31 employment subject to coverage by the plan or the
32 termination of employment in a position requiring or
33 permitting membership in another public retirement
34 system in this state the compensation from which may be
35 included in final compensation under Section 22127.

36 (j) This section shall become operative on January 1,
37 2002.

38 *SEC. 205. Section 24603 of the Education Code is*
39 *amended to read:*

24603. If any estimated allowances *under this part* are more or less than the correct amount due, the difference between the correct amount and the estimated allowance shall be adjusted in subsequent payments or the Controller may state an account with the retired member, disabled member, or beneficiary, pursuant to Section 12419 of the Government Code.

SEC. 206. Section 24604 of the Education Code is amended to read:

24604. (a) A retired member, disabled member, or beneficiary *under this part* shall specify whether monthly benefit payments are to be disbursed by: (1) direct deposit (electronic funds transfer); (2) direct mail to a financial or other institution; or (3) mailing to a payment address provided by the retired member, disabled member, or beneficiary.

(b) A member or beneficiary *under this part* to whom a lump-sum payment or benefit is to be disbursed shall specify the address to which the payment shall be mailed.

(c) (1) The board shall send a copy of the benefit payment information to any retired member, disabled member, or beneficiary *under this part* who has payments transmitted directly by electronic funds transfer or by mail to a financial institution, unless the board has received a written request from that person not to send a copy of the information.

(2) The board shall notify the retired member, disabled member, or beneficiary, in the monthly benefit payment notice, of the right to request that no copy of the benefit payment information be mailed, pursuant to paragraph (1).

(d) A payment disbursed as specified by the member or beneficiary *under this part* shall fully discharge the board, system, and plan from any claim resulting from actions taken under this section.

SEC. 207. Section 24605 of the Education Code is amended to read:

24605. Upon receipt of proof satisfactory to the board, that a warrant drawn in payment of a retirement allowance or in payment of any other account due from

1 the plan *under this part*, has been lost or that payment
2 transmitted electronically cannot be credited to an
3 account, the Controller upon the request of the board
4 shall issue a replacement warrant in payment of the same
5 amount, without requiring a bond from the payee, and
6 any loss incurred in connection therewith shall be
7 charged against the fund from which the payment was
8 derived.

9 *SEC. 208. Section 24606 of the Education Code is*
10 *amended to read:*

11 24606. (a) Whenever any warrant drawn in payment
12 of contributions or accumulated contributions or benefits
13 under this plan *under this part* remains unclaimed or the
14 legal claimant cannot be found, the board shall redeposit
15 the proceeds of the warrant in the retirement fund, and
16 shall hold the proceeds for the legal claimant without
17 further accumulation of interest, and the redeposit shall
18 not operate to establish the membership of the claimant
19 in this plan.

20 (b) Subdivision (a) shall apply to warrants drawn and
21 canceled by the Controller pursuant to Section 17070 of
22 the Government Code, except that upon notice of
23 cancellation, the proceeds revert to and become a part of
24 the retirement fund, and shall be applied to meet the
25 liabilities of the retirement fund *with respect to the*
26 *Defined Benefit Program*.

27 (c) The board may at any time, after reversion of
28 proceeds as provided above to the retirement fund and
29 upon receipt of proper information satisfactory to it,
30 return from the retirement fund an amount equal to
31 those proceeds to the credit of the legal claimant.

32 *SEC. 209. Section 24607 of the Education Code is*
33 *amended to read:*

34 24607. Any warrant in an amount less than two
35 thousand dollars (\$2,000) paid by the system *under this*
36 *part*, for the month in which a retired member or disabled
37 member dies, shall not be invalidated by the system,
38 except upon the request of the beneficiary of the retired
39 member or disabled member.

1 *SEC. 210. Section 24608 of the Education Code is*
2 *amended to read:*

3 24608. (a) Persons entitled to receive allowances
4 under the plan *under this part* may authorize deductions
5 to be made from those allowances, in accordance with
6 procedures established by the board.

7 (b) The board shall determine the additional cost
8 involved in making deductions under this section, and
9 may require the public agency, association, insurance
10 carrier, or unit thereof to pay the amount of the additional
11 cost to the board for deposit in the retirement fund *to the*
12 *credit of the Defined Benefit Program.*

13 *SEC. 211. Section 24609 of the Education Code is*
14 *amended to read:*

15 24609. Any allowance payable *under this part* to a
16 retired member, that has accrued and remains unpaid at
17 the time of his or her death, shall be paid to either of the
18 following:

19 (a) The option beneficiary entitled to payment in
20 accordance with an option elected by the member.

21 (b) The beneficiary entitled to receive the lump-sum
22 death benefit provided upon death of a retired member
23 if the member has not elected an option.

24 ~~SEC. 42.~~

25 *SEC. 212. Section 24610 of the Education Code is*
26 *amended to read:*

27 24610. Any disability allowance *under this part* that
28 has accrued and remains unpaid to a disabled member at
29 the time of death shall be paid to the person entitled to
30 receive a family allowance *under this part* or, if none, to
31 the beneficiary entitled to receive the death payment
32 *under this part.*

33 *SEC. 213. Section 24612 of the Education Code is*
34 *amended to read:*

35 24612. (a) If any person entitled to a benefit from the
36 plan *under this part* is a minor who has no guardian of his
37 or her estate, the benefit, not to exceed two thousand
38 dollars (\$2,000), may be paid to the person entitled to the
39 custody of the minor to hold for the minor, upon the
40 written statement, duly acknowledged and verified, of

1 the person that the total estate of the minor does not
2 exceed two thousand five hundred dollars (\$2,500) in
3 value.

4 (b) The payment shall constitute full discharge of any
5 and all liabilities of the board, system, and plan.

6 (c) The person shall account to the minor for the
7 money when the minor reaches the age of majority.

8 (d) Notwithstanding any other provision of this
9 section, a natural parent or an adoptive parent having
10 custody of the minor shall not be required to establish a
11 guardianship for the purpose of collecting a survivor
12 benefit, family benefit, or death benefit *under this part*.

13 *SEC. 214. Section 24613 of the Education Code is*
14 *amended to read:*

15 24613. (a) Payment pursuant to the board's
16 determination in good faith of the existence, identity, or
17 other facts relating to entitlement of persons *under this*
18 *part* constitutes a complete discharge and release of the
19 board, system, and plan from liability for that payment.

20 (b) Notwithstanding Sections 751 and 1100 of the
21 Family Code relating to community property interests,
22 whenever payment or refund is made by this system to a
23 member, former member, or beneficiary of a member
24 pursuant to this part, the payment shall fully discharge
25 the board, system, and plan from all adverse claims
26 thereto unless, before payment is made, a written notice
27 of adverse claim is received at the system's office in
28 Sacramento.

29 *SEC. 215. Section 24615 of the Education Code is*
30 *amended to read:*

31 24615. If the board determines that contributions are
32 due the system *under this part* from a retired member,
33 disabled member, or a person who has died and the
34 person is unable to pay the amount due, the board may
35 withhold all or part of subsequent payments due the
36 retired member, disabled member, or survivor, until the
37 amounts withheld equal the contributions due plus
38 regular interest to the date of payment. Total
39 contributions plus regular interest due shall be recovered
40 by the system within 18 months.

1 *SEC. 216. Section 24617 of the Education Code is*
2 *amended to read:*

3 24617. (a) To recover an amount overpaid *under this*
4 *part*, the corrected monthly allowance may be reduced
5 by no more than 5 percent if the overpayment was due
6 to error by the system, the county superintendent of
7 schools, a school district, or a community college district,
8 and by no more than 15 percent if the error was due to
9 inaccurate information or nonsubmission of information
10 by the recipient of the allowance.

11 (b) This section shall not apply to the collection of
12 overpayments due to fraud or intentional
13 misrepresentation of facts by the recipient of the
14 allowance.

15 *SEC. 217. Section 24618 of the Education Code is*
16 *amended to read:*

17 24618. Losses or gains resulting from overpayment or
18 underpayment of contributions or other amounts *under*
19 *this part* within the limits set by the State Board of Control
20 for automatic writeoff, and losses or gains in greater
21 amounts specifically approved for writeoffs by the State
22 Board of Control, shall be debited or credited, as the case
23 may be, to the appropriate reserve in the retirement
24 fund.

25 *SEC. 218. Section 24619 of the Education Code is*
26 *amended to read:*

27 24619. The system shall annually report to the board
28 the following information:

29 (a) The amount of underpayment made to recipients
30 *under this part*.

31 (b) The amount to be recovered because of
32 overpayments and the number of overpayments *under*
33 *this part*.

34 (c) The actions taken by the board and the system to
35 reduce the number and amount of overpayments and
36 underpayments *under this part*.

37 *SEC. 219. Section 24700 of the Education Code is*
38 *amended to read:*

39 24700. On July 1, 1972, and thereafter all persons who
40 first enter employment in the San Francisco Unified

1 School District ~~and~~ or the San Francisco Community
2 College District to perform creditable service subject to
3 coverage ~~by the plan~~ *under the Defined Benefit Program*
4 are members of the plan in accordance with Section
5 22501. These new members are excluded from coverage
6 under Subchapter II (commencing with Section 401) of
7 Chapter 7 of Title 42 of the United States Code, for service
8 performed as a member of the plan.

9 ~~SEC. 42.5.~~

10 *SEC. 220.* Section 24701 of the Education Code is
11 amended to read:

12 24701. Those credentialed members of the San
13 Francisco City and County Employees' Retirement
14 System on June 30, 1972, who make an irrevocable
15 election to be covered only by the State Teachers'
16 Retirement System ~~Defined Benefit Plan~~ *Plan under this*
17 *part* for prior and future service performed in San
18 Francisco, shall be allowed to be covered for other
19 certificated service concurrently, where the provisions of
20 the city and county charter permit. This shall not include
21 any credited service, as defined in Section 22121.

22 ~~SEC. 43.~~

23 *SEC. 221.* Section 24702 of the Education Code is
24 amended to read:

25 24702. (a) All persons on the San Francisco system
26 retired rolls on June 30, 1972, shall remain on the local
27 rolls. The State Teachers' Retirement System shall
28 continue the subvention in Section 24706 for those
29 persons, shall apply the percentage update and annual
30 improvement factor to payments being made ~~from~~ *under*
31 the Defined Benefit ~~Plan~~ *Program* directly to those
32 persons, and shall pay the retired death payment upon
33 their death.

34 (b) The allowance that would have been payable had
35 the member retired solely under the Defined Benefit
36 ~~Plan~~ *Program*, including the percentage update
37 calculated under Sections 14332, 14333, and 14334, as
38 enacted by Chapter 2 of the Statutes of 1959, as those
39 sections read on December 31, 1974, shall be taken into
40 account in computing the amount of increase for the ten

1 dollar (\$10) a month per year of service minimum ~~benefit~~
2 *unmodified allowance.*

3 ~~SEC. 44.~~

4 *SEC. 222. Section 24703 of the Education Code is*
5 *amended to read:*

6 24703. Persons who select to be covered only by the
7 Defined Benefit—~~Plan~~ *Program* and already have credit
8 for classified or other noncertificated service in the San
9 Francisco local system shall not have that credit
10 transferred to the Defined Benefit ~~Plan~~ *Program*.

11 *SEC. 223. Section 24704 of the Education Code is*
12 *amended to read:*

13 24704. The San Francisco City and County
14 Employees' Retirement System shall provide concurrent
15 retirement benefits for classified and other
16 noncertificated service in the San Francisco system
17 according to the provisions applicable to miscellaneous
18 employees of the time of the concurrent retirement for:

19 (a) Members of that system who transfer to the
20 Defined Benefit ~~Plan~~ *Program* after June 30, 1972.

21 (b) Persons who were members of both the San
22 Francisco system and the Defined Benefit ~~Plan~~ *Program*
23 on June 30, 1972.

24 (c) Any person who could have qualified under
25 subdivision (b) if he or she had not taken a refund from
26 either the San Francisco System or the Defined Benefit
27 ~~Plan~~ *Program*, but not both, provided the person qualifies
28 for and redeposits prior to retirement.

29 *SEC. 224. Section 24750 of the Education Code is*
30 *amended to read:*

31 24750. Those members who took a refund of their
32 accumulated contributions from the former Los Angeles
33 Unified School District Retirement System or the former
34 Los Angeles Community College District Retirement
35 System or the San Francisco City and County Employees'
36 Retirement System, prior to July 1, 1972, and who have
37 former Permanent Fund contributions only on deposit
38 related to former local system service shall have those
39 accumulated former Permanent Fund contributions on
40 deposit as of July 1, 1972, treated in the same manner as

1 accumulated retirement contributions of all nonlocal
2 members. Upon discovery and notification to those
3 members, they shall do either of the following:

4 (a) Redeposit the contributions required to bring the
5 account into full balance with regular interest prior to
6 retirement *under this part*.

7 (b) Leave those former Permanent Fund
8 accumulated contributions on deposit and receive a
9 reduced retirement allowance under the law as it read on
10 June 30, 1972.

11 *SEC. 225. Section 24751 of the Education Code is*
12 *amended to read:*

13 24751. Those members who took a refund of their
14 accumulated contributions from the former Los Angeles
15 Unified School District Retirement System or the former
16 Los Angeles Community College District Retirement
17 System or the San Francisco City and County Employees'
18 Retirement System, prior to July 1, 1972, and who also
19 took a refund of their Permanent Fund contributions
20 from the State Teachers' Retirement System *with respect*
21 *to the Defined Benefit—Plan Program*, and who
22 redeposited their contributions in the local system but did
23 not redeposit their Permanent Fund contributions in the
24 State Teachers' Retirement System *with respect to the*
25 *Defined Benefit Plan Program*, shall redeposit the
26 contributions required to bring the account into full
27 balance with regular interest from the date of refund to
28 the date of payment. The redeposit may be made
29 immediately upon notification by the system and shall be
30 made prior to retirement *under this part*. The redeposit
31 shall be made in a lump sum or by installment payments
32 as specified by the chief executive officer.

33 *SEC. 226. Section 24950 of the Education Code is*
34 *amended to read:*

35 24950. An annuity contract and custodial account as
36 described in Section 403(b) of the Internal Revenue
37 Code of 1986 shall be offered to all employees of any state
38 agency who are members of the plan *under this part* or
39 any employee of a local public agency or political
40 subdivision of this state that employs persons to perform

1 creditable service subject to coverage by the plan *under*
2 *this part*. The following criteria shall apply to that annuity
3 contract and custodial account:

4 (a) The annuity contract and custodial account shall
5 be offered for at least five years.

6 (b) The annuity contract and custodial account may
7 be administered by a qualified third-party administrator
8 that shall, under agreement with the system, provide
9 custodial, investment, recordkeeping, or administrative
10 services, or any combination thereof. The third-party
11 administrator shall not provide investment options.

12 (c) The investment options offered shall be
13 determined by the board consistent with those annuity
14 contract and custodial accounts described in Section
15 403(b) of the Internal Revenue Code of 1986.

16 (d) The system's investment staff shall make
17 recommendations to the board as to the appropriate
18 investment options. At a minimum, the board shall offer
19 at least three investment options. The board shall have
20 sole responsibility for the selection of service providers.

21 (e) All contributions made in accordance with the
22 provisions of Section 403(b) of the Internal Revenue
23 Code of 1986 and this section shall be remitted directly to
24 the administrator and held by the administrator in a
25 custodial account on behalf of the employee. Any
26 investment gains or losses shall be credited to those
27 accounts. The forms of payment and disbursement
28 procedure shall be consistent with those generally
29 offered by similar annuity contracts and custodial
30 accounts and applicable federal and state statutes
31 governing those contracts and accounts.

32 (f) Any employer, other than the state, may elect to
33 make contributions to the employee's annuity contract
34 and custodial account on behalf of the employee. The
35 employer shall take whatever action is necessary to
36 implement this section, including the adoption of an
37 annuity contract and custodial account, or provide the
38 appropriate authorization in accordance with the
39 provision of Section 403(b) of the Internal Revenue Code
40 of 1986. Employer contributions made under this section

1 are excluded from the definition of creditable
2 compensation as provided in Section 22119.2.

3 (g) The design and administration of the annuity
4 contract and custodial account shall comply with the
5 applicable provisions of the Internal Revenue Code of
6 1986 and the Revenue and Taxation Code. Section 770.3
7 of the Insurance Code shall not be applicable.

8 *SEC. 227. Section 24951 of the Education Code is*
9 *amended to read:*

10 24951. If the rate of participation in the annuity
11 contract and custodial account is less than 2 percent of ~~the~~
12 ~~plan's~~ active members *in the Defined Benefit Program*
13 upon the completion of the initial five years of
14 administration, the board may elect to terminate the
15 offering of the annuity contract and custodial account as
16 described in Section 403(b) of the Internal Revenue
17 Code of 1986. The board shall provide two years' notice
18 to the annuity contract and custodial account participants
19 of its intention to terminate.

20 *SEC. 228. Section 25000 of the Education Code is*
21 *amended to read:*

22 25000. (a) The board may develop one or more
23 deferred compensation plans under Section 457 of the
24 Internal Revenue Code which an employer may choose
25 to establish and offer to its employees who are members
26 of the ~~Defined Benefit Plan or participants of the Cash~~
27 ~~Balance Plan~~ *plan under this part or Part 14*
28 *(commencing with Section 26000).*

29 (b) In the event that an employer adopts a deferred
30 compensation plan described in subdivision (a):

31 (1) The employer shall enter into a written
32 contractual arrangement with the system under which
33 the system, or a third-party administrator acting on behalf
34 of the system, shall provide investment, recordkeeping,
35 and administrative services for the deferred
36 compensation plan.

37 (2) The initial period of the contractual arrangement
38 described in paragraph (1) shall be for a term of five
39 years.

1 (3) The deferred compensation plan shall continue to
2 constitute a separate plan established and maintained by
3 the adopting employer.

4 (4) The system shall be treated as acting on behalf of
5 the employer in administering the deferred
6 compensation plan.

7 (5) The terms and administration of the deferred
8 compensation plan shall be in accordance with the
9 applicable provisions of Section 457 of the Internal
10 Revenue Code.

11 (6) The interest of an employee, or his or her
12 beneficiary, participating in the deferred compensation
13 plan in the assets, including amounts deferred under the
14 plan and paid over to the Teachers' Deferred
15 Compensation Fund described in Section 25001, of the
16 employer sponsoring the deferred compensation plan
17 shall not be senior to that of the general creditors of the
18 employer.

19 (7) In administering the deferred compensation plan
20 on behalf of the employer, the board shall have the same
21 investment authority and discretion and be subject to the
22 same fiduciary standards pursuant to Chapter 4
23 (commencing with Section 22250), with respect to
24 amounts deferred under the deferred compensation plan
25 as applied by the system with respect to the Teachers'
26 Retirement Fund.

27 (c) In the event that an employer establishes and
28 maintains a deferred compensation plan described in
29 subdivision (a), the deferred compensation plan shall be
30 offered to all of its employees who are members of the
31 ~~Defined Benefit Plan or participants of the Cash Balance~~
32 ~~Plan~~ *plan under this part or Part 14 (commencing with*
33 *Section 26000).*

34 (d) An employee participating in a deferred
35 compensation plan established by an employer under this
36 section shall enter into a written agreement with the
37 employer for the deferral of compensation prior to the
38 performance of the services to which that compensation
39 relates.

1 (e) In the event that an employer chooses to establish
2 and maintain a deferred compensation plan described in
3 subdivision (a) that is to be administered by the system,
4 the employer shall take all necessary or appropriate
5 action to implement this section in cooperation with the
6 system.

7 *SEC. 229. Section 26001 of the Education Code is*
8 *amended to read:*

9 26001. The design and administration of the plan,
10 *including the Cash Balance Benefit Program*, shall
11 comply with the applicable provisions of the Internal
12 Revenue Code and the Revenue and Taxation Code. The
13 Teachers' Retirement Board may amend the plan to
14 comply with the applicable federal laws and regulations
15 to the extent permitted by law, to establish or revise the
16 minimum interest rate, to declare additional earnings
17 credit, to declare additional annuity credit, and to adopt
18 and amend actuarial assumptions for all purposes under
19 the plan.

20 *SEC. 230. Section 26002 of the Education Code is*
21 *amended to read:*

22 26002. The Cash Balance ~~Plan~~ *Benefit Program* shall
23 be administered by the Teachers' Retirement Board with
24 all of the powers, responsibilities and duties for
25 administration of the ~~system plan~~ set forth in Chapter 3
26 (commencing with Section 22200) through Chapter 7
27 (commencing with Section 22375) of Part 13. In
28 administering the plan, the board and its officers and
29 employees of the system shall exercise their fiduciary
30 duties set forth in Chapter 4 (commencing with Section
31 22250) of Part 13.

32 *SEC. 231. Section 26102 of the Education Code is*
33 *amended to read:*

34 26102. "Actuary" means a person professionally
35 trained in the technical and mathematical aspects of
36 insurance, pensions, and related fields who has been
37 appointed by the board for the purpose of ~~performing the~~
38 *actuarial services required under Section 26211 this part.*

39 *SEC. 232. Section 26113 of the Education Code is*
40 *amended to read:*

1 26113. (a) “Creditable Service” means any of the
2 following activities performed for an employer in a
3 position requiring a credential, certificate, or permit
4 pursuant to this code or under the appropriate minimum
5 standards adopted by the Board of Governors of the
6 California Community Colleges or under the provisions
7 of an approved charter for the operation of a charter
8 school for which the employer is eligible to receive state
9 apportionment or pursuant to a contract between a
10 community college district and the United States
11 Department of Defense to provide vocational training:

12 (1) The work of teachers, instructors, district interns
13 and academic employees employed in the instructional
14 program for pupils, including special programs such as
15 adult education, regional occupational programs, child
16 care centers, and prekindergarten programs pursuant to
17 Section 22161.

18 (2) Education or vocational counseling, guidance, and
19 placement services.

20 (3) The work of directors, coordinators, and assistant
21 administrators who plan courses of study to be used in
22 California public schools, or research connected with the
23 evaluation or efficiency of the instructional program.

24 (4) The selection, collection, preparation,
25 classification, demonstration, or evaluation of
26 instructional materials of any course of study for use in the
27 development of the instructional program in California
28 public schools, or other services related to school
29 curriculum.

30 (5) The examination, selection, in-service training, or
31 assignment of teachers, principals or other similar
32 personnel involved in the instructional program.

33 (6) School activities related to, and an outgrowth of,
34 the instructional and guidance program of the school
35 when performed in addition to other activities described
36 in this section.

37 (7) The work of nurses, physicians, speech therapists,
38 psychologists, audiometrists, audiologists, and other
39 school health professionals.

40 (8) Services as a school librarian.

(9) The work of county and district superintendents and other employees who are responsible for the supervision of persons or administration of the duties described in this section.

(b) “Creditable service” also means the work of superintendents of California public schools.

(c) The board shall have final authority for determining creditable service to cover any activities not already specified.

~~SEC. 45.~~

SEC. 233. Section 26117 of the Education Code is amended to read:

26117. “Disability date” means the date the benefit becomes payable to a participant who has applied for a disability benefit from the plan *under this part* and has been determined to have a total and permanent disability.

SEC. 234. Section 26119 of the Education Code is amended to read:

26119. “Employee account” means the nominal account of the participant to which employee contributions and interest and any additional earnings credits in respect thereof are credited under the ~~plan~~ *Cash Balance Benefit Program*.

SEC. 235. Section 26120 of the Education Code is amended to read:

26120. “Employee contribution rate” means the percentage of the participant’s salary withheld by the employer as an employee contribution under the ~~plan~~ *Cash Balance Benefit Program*.

SEC. 236. Section 26121 of the Education Code is amended to read:

26121. “Employee contribution” means the amount withheld from the participant’s salary by the employer as a contribution by the employee under the ~~plan~~ *Cash Balance Benefit Program*.

SEC. 237. Section 26123 of the Education Code is amended to read:

26123. “Employer account” means the nominal account of the participant in which employer

1 contributions on behalf of the participant and interest
2 and any additional earnings credits in respect thereof are
3 credited under the ~~plan~~ *Cash Balance Benefit Program*.

4 *SEC. 238. Section 26124 of the Education Code is*
5 *amended to read:*

6 26124. "Employer contribution rate" means the
7 percentage of salary that determines the amount the
8 employer contributes to the ~~plan~~ *Cash Balance Benefit*
9 *Program* with respect to each employee who is a
10 participant.

11 *SEC. 239. Section 26125 of the Education Code is*
12 *amended to read:*

13 26125. "Employer contribution" means the amount
14 contributed by the employer to the ~~plan~~ *Cash Balance*
15 *Benefit Program* with respect to the participant.

16 *SEC. 240. Section 26126 of the Education Code is*
17 *amended to read:*

18 26126. "Employed" or "employment" means
19 employed to perform creditable service *subject to*
20 *coverage under the Cash Balance Benefit Program*.

21 *SEC. 241. Section 26127 of the Education Code is*
22 *amended to read:*

23 26127. "Full time equivalent" means the days or hours
24 of creditable service that a person who is employed on a
25 part-time basis would be required to perform in a school
26 year if he or she were employed full time, as defined by
27 Section 22138.5, in that position.

28 ~~SEC. 46.~~

29 *SEC. 242. Section 26131 of the Education Code is*
30 *amended to read:*

31 26131. "Minimum interest rate" means the annual
32 rate determined for the plan year by the board by means
33 of an amendment to the plan *with respect to the Cash*
34 *Balance Benefit Program* in accordance with applicable
35 federal laws and regulations.

36 *SEC. 243. Section 26132 of the Education Code is*
37 *amended to read:*

38 26132. "Participant" means a person who has
39 performed creditable service subject to coverage by the
40 ~~plan~~ *Cash Balance Benefit Program*, and who has

1 contributions credited under the ~~plan~~ *Cash Balance*
2 *Benefit Program* or is receiving an annuity under the ~~plan~~
3 *Cash Balance Benefit Program* by reason of creditable
4 service.

5 *SEC. 244.* Section 26133 of the Education Code is
6 amended to read:

7 26133. “Pay period” means a payroll period specified
8 by the employer but not more than 31 calendar days.

9 ~~*SEC. 47.*~~

10 *SEC. 245.* Section 26136 of the Education Code is
11 amended to read:

12 26136. “Retirement” means termination of
13 employment and completion of all conditions precedent
14 to receiving a retirement benefit *under the Cash Balance*
15 *Benefit Program*.

16 *SEC. 246.* Section 26138 of the Education Code is
17 amended to read:

18 26138. “Retirement date” means the date the benefit
19 *under this part* becomes payable to a participant who has
20 applied for a retirement benefit from the plan *under this*
21 *part*.

22 *SEC. 247.* Section 26139 of the Education Code is
23 amended to read:

24 26139. (a) “Salary” means remuneration payable in
25 cash by an employer to a participant for creditable
26 service *subject to coverage under the Cash Balance*
27 *Benefit Program*. Salary shall include:

28 (1) Money paid in accordance with a salary schedule
29 based on years of training and years of experience as
30 specified in Section 45028 for creditable service
31 performed.

32 (2) For participants not paid according to a salary
33 schedule, money paid for creditable service performed.

34 (3) Money paid for the participant’s absence from
35 performance of creditable service as approved by an
36 employer, except as provided in paragraph (5) of
37 subdivision (b).

38 (4) Employee contributions picked up by an employer
39 under Section 414(h)(2) of Title 26 of the United States

1 Code and Section 17501 of the Revenue and Taxation
2 Code.

3 (5) Amounts deducted by an employer from the
4 participant's salary, including deductions for
5 participation in a deferred compensation plan;
6 deductions for the purchase of annuity contracts,
7 tax-deferred retirement plans, or other insurance
8 programs; and deductions for participation in a plan that
9 meets the requirements of Section 125, 401(k), or 403(b)
10 of Title 26 of the United States Code.

11 (6) Money paid by an employer in addition to salary
12 paid under paragraph (1) or (2) if paid to all employees
13 in a class in the same dollar amount, the same percentage
14 of salary, or the same percentage of the amount being
15 distributed.

16 (7) Any other payments the board determines by plan
17 amendment to be "salary."

18 (b) "Salary" does not mean and shall not include:

19 (1) Money paid for service that is not creditable
20 service.

21 (2) Money paid by an employer in addition to salary
22 paid under paragraph (1) or (2) if not paid to all
23 employees in a class in the same dollar amount, the same
24 percentage of salary, or the same percentage of the
25 amount being distributed.

26 (3) Fringe benefits provided by an employer.

27 (4) Job-related expenses paid or reimbursed by an
28 employer.

29 (5) Money paid for unused accumulated leave.

30 (6) Compensatory damages or money paid to a
31 participant in excess of salary as a compromise settlement
32 or as severance pay.

33 (7) Annuity contracts, tax-deferred retirement
34 programs, or other insurance programs, including, but
35 not limited to, plans that meet the requirements of
36 Section 125, 401(k), or 403(b) of Title 26 of the United
37 States Code that are purchased by an employer for a
38 participant.

1 (8) Any payments determined by the board to have
2 been made by an employer for the principal purpose of
3 enhancing a participant's benefits under the plan.

4 (9) Any other payments the board determines by plan
5 amendment not to be "salary."

6 (c) Any employer or person who knowingly or
7 willfully reports salary in a manner inconsistent with the
8 provisions of subdivisions (a) or (b) shall reimburse the
9 plan for any overpayment of benefits that occurs because
10 of such inconsistent reporting and may be subject to
11 prosecution for fraud, theft, or embezzlement in
12 accordance with provisions of the Penal Code. The
13 system may establish procedures to ensure that salary
14 reported by an employer is in compliance with this
15 section.

16 (d) This section shall be deemed to have become
17 operative on July 1, 1996.

18 *SEC. 248. Section 26143 of the Education Code is*
19 *amended to read:*

20 26143. "Termination benefit" means a benefit that is
21 an amount equal to the sum of the participant's employee
22 account and employer account payable *under this part*
23 pursuant to the provisions of Chapter 13 (commencing
24 with Section 27200).

25 *SEC. 249. Section 26144 of the Education Code is*
26 *amended to read:*

27 26144. "Total and permanent disability" means any
28 medically determinable physical or mental incapacity
29 that is expected to prevent the participant from
30 performing creditable service *under this part* for the
31 employer for a continuous period of at least one year.

32 *SEC. 250. Section 26208 of the Education Code is*
33 *amended to read:*

34 26208. The board shall establish and maintain records
35 and accounts following recognized accounting principles
36 and controls *with respect to the Cash Balance Benefit*
37 *Program.*

38 *SEC. 251. Section 26210 of the Education Code is*
39 *amended to read:*

26210. The board has exclusive control of the investment of the *Retirement Fund with respect to assets attributed to the Cash Balance—Fund Benefit Program*. In investing the fund, the board and its officers and employees shall exercise their fiduciary duties set forth in Chapter 4 (commencing with Section 22250) and Chapter 6 (commencing with Section 22350) of Part 13.

SEC. 252. Section 26211 of the Education Code is amended to read:

26211. The board shall acquire the services of an actuary to:

(a) Perform an actuarial investigation of the demographic and economic experience of the ~~plan~~ *Cash Balance Benefit Program* at least once every four years and make recommendations to the board for the adoption of actuarial assumptions for the ~~plan~~ *program* that are, in the aggregate, reasonably related to the past experience of the ~~plan~~ *program* and the actuary's best estimate of the future experience of the ~~plan~~ *program*.

(b) Perform an annual actuarial valuation of the assets and liabilities of the plan *with respect to the Cash Balance Benefit Program*, using the actuarial assumptions adopted by the board.

(c) Recommend to the board all rates and factors necessary to administer the ~~plan~~ *Cash Balance Benefit Program*, including, but not limited to, mortality tables, annuity factors, interest rates, additional earnings credits, and employer contribution rates.

(d) Recommend to the board the goal for maintaining a sufficient Gain and Loss Reserve *with respect to the Cash Balance Benefit Program*, the amount to be transferred to the Gain and Loss Reserve from investment earnings of the plan each year *with respect to the Cash Balance Benefit Program*, and a strategy for the amortization of any unfunded actuarial obligation.

(e) Recommend to the board transfers of amounts between the Gain and Loss Reserve and the Annuitant Reserve *with respect to the Cash Balance Benefit Program*.

(f) Perform any other actuarial services that may be required for the administration of the plan *with respect to the Cash Balance Benefit Program*, as requested by the board.

SEC. 253. Section 26212 of the Education Code is amended to read:

26212. The board shall maintain all data necessary for the actuarial investigation of the demographic and economic experience of the ~~plan~~ *Cash Balance Benefit Program*, and for the actuarial valuation of the assets and liabilities of the plan *with respect to the Cash Balance Benefit Program*.

SEC. 254. Section 26213 of the Education Code is amended to read:

26213. The board shall adopt actuarial assumptions, rates, factors and tables necessary to administer the ~~plan~~ *Cash Balance Benefit Program* as an amendment to the plan.

SEC. 255. Section 26216 of the Education Code is amended to read:

26216. The board may administer the ~~plan~~ *Cash Balance Benefit Program* through an agreement with a qualified third-party administrator that shall provide custodial, recordkeeping, or other administrative services specified under the agreement.

SEC. 256. Section 26301 of the Education Code is amended to read:

26301. (a) Employers shall report, on a form prescribed by the system, contributions paid on behalf of each participant in each pay period, along with all other information required by the system, no later than 15 calendar days following the last day of the pay period in which the salary was paid, and the report is delinquent immediately thereafter.

(b) The board may assess a penalty against the employer for a report submitted late or in an unacceptable form.

~~SEC. 47.5.~~

SEC. 257. Section 26301.5 is added to the Education Code, to read:

26301.5. Each employer shall deduct from the salary of participants employed by the employer the participant contributions required by this part and shall remit to the system those contributions plus the employer contributions required by this part and Section 44987.

~~SEC. 48.~~

SEC. 258. Section 26302 of the Education Code is amended to read:

26302. (a) If more or less than the ~~required~~ contributions *required by this part* are paid to the plan based on salary paid to a participant, proper adjustment shall be made by the employer within 60 days of discovery or of notification by the system, and any contributions deducted in error from the participant's salary shall be returned to the participant by the employer within the same time period.

(b) If a report *with respect to the Cash Balance Benefit Program* contains erroneous information and the system, acting in good faith, makes a distribution from the Teachers' Retirement Fund with respect to the Cash Balance Benefit Program based on that information, the employer who submitted the report shall reimburse the ~~fund~~ *Retirement Fund* in full for the amount of the erroneous disbursement, plus interest on the amount of the erroneous disbursement at the minimum interest rate from the date of disbursement to the date of reimbursement, immediately upon notification by the system.

~~SEC. 49.~~

SEC. 259. Section 26303 of the Education Code is amended to read:

26303. (a) Employers shall transmit to the plan the employee contributions and employer contributions *with respect to the Cash Balance Benefit Program* for salary paid to each participant during the pay period no later than five working days following the last day of the pay period in which the salary was paid.

(b) Payments shall be delinquent on the sixth working day thereafter, and interest shall begin to accrue at the minimum interest rate from that day until payment is

1 received by the plan. Interest for late payment under this
2 subdivision shall be due from the employer.

3 *SEC. 260. Section 26305 of the Education Code is*
4 *amended to read:*

5 26305. Upon request of the system, an employer shall
6 provide the system with information regarding the salary
7 paid or to be paid to employees subject to coverage by the
8 ~~plan~~ *Cash Balance Benefit Program* in a plan year. The
9 information may include, but shall not be limited to,
10 employment contracts, salary schedules, and minutes
11 from meetings conducted by the governing board of the
12 employer.

13 *SEC. 261. Section 26306 of the Education Code is*
14 *amended to read:*

15 26306. (a) Upon request by the system, a participant
16 or beneficiary *with respect to the Cash Balance Benefit*
17 *Program* shall provide to the system any information
18 affecting his or her status as a participant or beneficiary.

19 (b) Upon request by the system, the participant shall
20 provide proof of his or her date of birth.

21 (c) A participant who has not contributed to the ~~plan~~
22 *Cash Balance Benefit Program* during the immediately
23 preceding plan year shall provide the system with his or
24 her current mailing address and beneficiary information.

25 *SEC. 262. Section 26400 of the Education Code is*
26 *amended to read:*

27 26400. (a) A person employed to perform creditable
28 service for less than 50 percent of the full-time equivalent
29 for the position shall become a participant on the later of
30 the first day on which creditable service is performed for
31 an employer that provides the Cash Balance Benefit
32 Program or the effective date of the employer's
33 governing board's action to provide the Cash Balance
34 Benefit Program, provided the person is not subject to
35 mandatory membership in the Defined Benefit Program
36 except as provided in Section 26402.

37 (b) If the employer's governing board's action to
38 provide the Cash Balance Benefit Program gives
39 employees the right to elect coverage under social
40 security or an alternative retirement plan offered by the

1 employer in addition to the Cash Balance Benefit
2 Program, the employee may elect within 60 calendar days
3 of the later of the first day on which creditable service is
4 performed, the date of the employer's governing board's
5 action to provide the Cash Balance Benefit Program, or
6 the effective date of the employer's governing board's
7 action to provide the Cash Balance Benefit Program to be
8 covered by social security or to participate in the
9 alternative retirement plan in lieu of participating in the
10 Cash Balance Benefit Program. Any election shall not
11 preclude an employee from participating in the Cash
12 Balance Benefit Program at a later date so long as the
13 Cash Balance Benefit Program is provided by the
14 employer and the employee is eligible to participate in
15 the Cash Balance Benefit Program.

16 (c) If subdivision (b) is applicable, the employer shall
17 inform employees pursuant to subdivision (c) of Section
18 26300 of their right to make an election and the election
19 shall be made on a form prescribed by the system and
20 filed with the employer. The election shall become
21 effective on the later of the first day on which creditable
22 service is performed or the effective date of the
23 employer's governing board's action to provide the Cash
24 Balance Benefit Program.

25 (d) If the participant's basis of employment with an
26 employer that provides the Cash Balance Benefit
27 Program changes to employment to perform creditable
28 service for 50 percent or more of the full-time equivalent
29 for the position, contributions to the Cash Balance Benefit
30 Program on behalf of the participant shall no longer be
31 made and creditable service performed for that
32 employer and all other employers shall be subject to
33 coverage by the Defined Benefit Plan as of the first day
34 of the pay period in which the change in the participant's
35 basis of employment occurred, except as provided in
36 Section 26402.

37 ~~SEC. 50.~~

38 *SEC. 263.* Section 26401 of the Education Code is
39 amended to read:

1 26401. (a) A member of the Defined Benefit
2 Program who is employed to perform creditable service
3 for less than 50 percent of the full-time equivalent for the
4 position for an employer that provides the Cash Balance
5 Benefit Program may elect to become a participant for
6 creditable service subject to coverage by the Cash
7 Balance Benefit Program for that employer provided that
8 the creditable service is not performed for the same
9 employer with whom the member is also subject to
10 mandatory membership in the Defined Benefit Program.

11 (b) The election shall be made on a form prescribed by
12 the system and shall be filed with the employer within 60
13 calendar days of the later of the first day of employment
14 with an employer that provides the Cash Balance Benefit
15 Program, the date of the employer's governing board's
16 action to provide the Cash Balance Benefit Program, or
17 the effective date of the employer's governing board's
18 action to provide the Cash Balance Benefit Program.

19 (c) Employers shall make available to employees
20 specified in subdivision (a) information and forms
21 provided by the system for making an election regarding
22 participation, and shall maintain the written election by
23 the employee in employer files. The election shall
24 become effective on the first day of the month following
25 the month in which the election is made.

26 (d) If an election is made pursuant to subdivision (a)
27 and the participant's basis of employment with that
28 employer changes to employment to perform creditable
29 service for 50 percent or more of the full-time equivalent
30 for the position, contributions to the Cash Balance Benefit
31 Program on behalf of the participant shall no longer be
32 made and creditable service performed for that
33 employer and all other employers shall be subject to
34 coverage by the Defined Benefit Program as of the first
35 day of the pay period in which the change in the
36 participant's basis of employment occurred, except as
37 provided in Section 26402.

38 ~~SEC. 51.~~

39 *SEC. 264. Section 26500 of the Education Code is*
40 *amended to read:*

1 26500. Acceptance of employment subject to
2 coverage by the ~~plan~~ *Cash Balance Benefit Program*
3 constitutes consent to have contributions deducted from
4 the employee's salary as required by Section 26501.

5 *SEC. 265.* Section 26502 of the Education Code is
6 amended to read:

7 26502. Notwithstanding Section 26301.5, the
8 employer may pick up, for the sole purpose of and in
9 accordance with the requirements of Section 414(h)(2)
10 of Title 26 of the United States Code and Section 17501 of
11 the Revenue and Taxation Code, all of the amounts
12 otherwise due as employee contributions, which shall be
13 paid by the employer in lieu of employee contributions
14 and which shall be deducted from the employee's salary.

15 ~~SEC. 52.~~

16 *SEC. 266.* Section 26504 of the Education Code is
17 amended to read:

18 26504. The employer may enter into a collective
19 bargaining agreement to pay a different employer
20 contribution rate and a different employee contribution
21 rate, provided all of the following conditions are met:

22 (a) The sum of the employee contributions and
23 employer contributions for each participant shall equal or
24 exceed 8 percent of salary.

25 (b) The employee contribution rate may exceed the
26 employer contribution rate but in no event shall the
27 employer contribution rate be less than 4 percent.

28 (c) The employee contribution rate and employer
29 contribution rate shall be the same for each participant
30 employed by the employer.

31 (d) The employee contribution rate and employer
32 contribution rate shall be in one-quarter percent
33 increments.

34 (e) The employee contribution rate and employer
35 contribution rate as determined under the collective
36 bargaining agreement shall become effective on the first
37 day of the plan year following notice to the system and
38 remain in effect for at least one plan year. However, the
39 employee contribution rate and the employer
40 contribution rate as determined under the collective

1 bargaining agreement may become effective as of the
2 first day of the plan year in which notice is given if it is
3 provided in the collective bargaining agreement and if a
4 lump-sum contribution is made to the plan equal to the
5 additional employee and employer contributions, if any,
6 that would have been required if the contribution rates
7 were in effect on the first day of the plan year. Interest
8 shall be credited at the minimum interest rate with
9 respect to the lump-sum contribution commencing with
10 the first month the contribution is made.

11 (f) The employer has filed notice of the employee
12 contribution rate and the employer contribution rate on
13 a form prescribed by the system.

14 ~~SEC. 53.~~

15 *SEC. 267. Section 26505 of the Education Code is*
16 *amended to read:*

17 26505. If a participant who has retired and is receiving
18 an annuity under the ~~plan~~ *Cash Balance Benefit Program*
19 becomes reemployed prior to 60 years of age or becomes
20 reemployed on or after 60 years of age but within one year
21 of his or her retirement date, to perform creditable
22 service subject to coverage by the plan, the annuity shall
23 be terminated, the employee account and the employer
24 account of the participant shall be credited with
25 respective balances that reflect the actuarial equivalent
26 of the participant's retirement benefit as of the date of the
27 reemployment and the Annuitant Reserve shall be
28 reduced by the amount of the credits. If a participant who
29 has retired and is receiving an annuity under the ~~plan~~
30 *Cash Balance Benefit Program* becomes reemployed on
31 or after age 60 and more than one year after retirement
32 to perform creditable service under the plan, the annuity
33 shall continue and employee contributions and employer
34 contributions for the creditable service shall be made to
35 the plan and shall be credited to new employee and
36 employer accounts established on behalf of the
37 participant.

38 *SEC. 268. Section 26507 of the Education Code is*
39 *amended to read:*

1 26507. (a) The board may adjust the mandatory
2 employer contribution rate specified under Section 26503
3 for a fixed period of plan years when it has determined
4 based upon the recommendation of the actuary, that
5 increased contributions are required. The adjustment
6 shall not exceed one-fourth of one percent for any plan
7 year. The mandatory employer contribution rate as
8 adjusted shall not exceed 4.25 percent of salary in any plan
9 year for each participant employed by the employer,
10 except as provided in subdivision (b).

11 (b) The adjustment to the employer contribution rate
12 specified in subdivision (a) shall be applied to the
13 employer contribution rate specified in a collective
14 bargaining agreement pursuant to Section 26504 and in
15 effect on the first day of the plan year in which the
16 adjustment to the employer contribution rate takes
17 effect.

18 (c) The adjusted employer contribution rate shall
19 become effective no earlier than the first day of the plan
20 year immediately following adoption by the board.

21 ~~SEC. 54.~~

22 *SEC. 269. Section 26604 of the Education Code is*
23 *amended to read:*

24 26604. (a) Beginning June 1, 1996, prior to the ~~plan~~
25 *Cash Balance Plan* becoming effective, and each June
26 thereafter, the board, by plan amendment *with respect*
27 *to the Cash Balance Benefit Program*, shall declare the
28 minimum interest rate to be used to credit employee
29 accounts and employer accounts *with respect to the Cash*
30 *Balance Benefit Program* during the plan year beginning
31 July 1.

32 (b) Interest shall be computed at the minimum
33 interest rate on the balance of the employee account and
34 the employer account as of the first day of that month.
35 Interest for contributions credited during that month to
36 the respective account shall be computed at the
37 minimum interest rate from the date of deposit. Interest
38 shall be credited to the respective account as of the last
39 day of that month.

(c) Interest shall not be credited to employee accounts and employer accounts that have been transferred to the Annuitant Reserve for payment of an annuity.

SEC. 270. Section 26606 of the Education Code is amended to read:

26606. Any additional earnings credit declared shall be determined as a specified percentage increase in the closing balance of each employee account and employer account *with respect to the Cash Balance Benefit Program* measured as of the last day of the plan year. The additional earnings credit shall be credited to employee account and employer account balances as of the date the board declares the additional earnings credit is to be applied. The additional earnings credit shall not be credited to employee accounts and employer accounts that have been transferred to the Annuitant Reserve for payment of an annuity *under the Cash Balance Benefit Program*.

SEC. 271. Section 26607 of the Education Code is amended to read:

26607. (a) The board may declare by means of plan amendment *with respect to the Cash Balance Benefit Program* an additional annuity credit applicable to annuities being paid under the ~~plan~~ *Cash Balance Benefit Program*.

(b) The declaration authorized by subdivision (a) may be made only when the board by plan amendment *with respect to the Cash Balance Benefit Program* declares an additional earnings credit as provided in Section 26605 and if the total amount of investment earnings of the plan *with respect to the Cash Balance Benefit Program* for the plan year exceeds the sum of the total amount required to credit all employee and employer accounts at the minimum interest rate, the administrative costs of the plan *with respect to the Cash Balance Benefit Program* for the plan year, any addition to be made to the Gain and Loss Reserve under subdivision (c) of Section 26202, ~~and~~ the total amount required to credit all employee and employer accounts in respect of the additional earnings credit so declared, *and any other obligations incurred by*

1 *the plan with respect to the Cash Balance Benefit*
2 *Program.*

3 (c) Any additional annuity credit *with respect to the*
4 *Cash Balance Benefit Program* shall be based upon the
5 annuity of the participant or beneficiary for the plan year
6 and shall be paid as a lump sum to the participant or
7 beneficiary on the date specified by the board.

8 *SEC. 272. Section 26800 of the Education Code is*
9 *amended to read:*

10 26800. The normal retirement age for the ~~plan~~ *Cash*
11 *Balance Benefit Program* is 60 years of age.

12 *SEC. 273. Section 26802 of the Education Code is*
13 *amended to read:*

14 26802. Distribution of the retirement benefit *under*
15 *this part* shall commence no later than the required
16 beginning date specified in subdivision (c) of Section
17 26004.

18 *SEC. 274. Section 26803 of the Education Code is*
19 *amended to read:*

20 26803. (a) All creditable service subject to coverage
21 by the ~~plan~~ *Cash Balance Benefit Program* and all service
22 with the participant's last employer or employers that is
23 creditable under the Defined Benefit ~~Plan~~ *Program* shall
24 be terminated prior to the retirement date.

25 (b) All employers with which the participant is
26 employed to perform creditable service subject to
27 coverage by the plan shall certify on a form prescribed by
28 the system that the participant's employment has been
29 terminated.

30 *SEC. 275. Section 26804 of the Education Code is*
31 *amended to read:*

32 26804. Application for a retirement benefit *under this*
33 *part* shall be made on a form prescribed by the system.

34 *SEC. 276. Section 26805 of the Education Code is*
35 *amended to read:*

36 26805. The retirement benefit *under this part* is a
37 benefit payable in the event of retirement that is an
38 amount equal to the sum of the employee account and the
39 employer account as of the retirement date.

1 SEC. 277. Section 26806 of the Education Code is
2 amended to read:

3 26806. The normal form of retirement benefit *under*
4 *this part* is a lump-sum payment. Upon distribution of the
5 lump-sum payment to the participant, no further benefits
6 shall be payable from the plan *with respect to the Cash*
7 *Balance Benefit Program*.

8 SEC. 278. Section 26807 of the Education Code is
9 amended to read:

10 26807. (a) Upon application for a retirement benefit
11 *under this part*, the participant may elect to receive the
12 retirement benefit in the form of an annuity, provided
13 the sum of the employee account and employer account
14 equals or exceeds three thousand five hundred dollars
15 (\$3,500).

16 (b) The participant may elect one of the following
17 annuity options:

18 (1) A single life annuity with a cash refund feature,
19 which is the actuarial equivalent of the lump sum payable
20 for the life of the participant with any balance remaining
21 upon the death of the participant payable in a lump sum
22 to the beneficiary.

23 (2) A single life annuity without a cash refund feature,
24 which is the actuarial equivalent of the lump sum payable
25 for the life of the participant.

26 (3) A 100-percent joint and survivor annuity, which is
27 the actuarial equivalent of the lump sum payable for the
28 combined lives of the participant and the beneficiary,
29 with the monthly amount payable to the participant
30 continuing to the surviving beneficiary upon the death of
31 the participant. However, if the option beneficiary
32 predeceases the participant, the annuity without
33 modification for the option shall be payable to the
34 participant upon notification to the board and shall
35 commence to accrue to the participant as of the day
36 following the date of death of the option beneficiary.
37 Notification to the board shall include proof of death of
38 the option beneficiary.

39 (4) A 50-percent joint and survivor annuity, which is
40 the actuarial equivalent of the lump sum payable for the

1 combined lives of the participant and the beneficiary,
 2 with one-half of the monthly amount payable to the
 3 participant continuing to the surviving beneficiary upon
 4 the death of the participant. However, if the option
 5 beneficiary predeceases the participant, the annuity
 6 without modification for the option shall be payable to the
 7 participant upon notification to the board and shall
 8 commence to accrue to the participant as of the day
 9 following the date of death of the option beneficiary.
 10 Notification to the board shall include proof of death of
 11 the option beneficiary.

12 (5) A period certain annuity, which is the lump sum
 13 payable over a specified number of years, from a
 14 minimum of three years to a maximum of 10 years but in
 15 any event not to exceed the life expectancy of the
 16 participant or the life expectancy of the participant and
 17 the participant's option beneficiary, until there is no
 18 balance remaining in the participant's employee account
 19 and employer account.

20 ~~SEC. 55.~~

21 *SEC. 279. Section 26809 of the Education Code is*
 22 *amended to read:*

23 26809. Upon election of an annuity *under this part*,
 24 the credits in the participant's employee account and
 25 employer account shall be transferred to the Annuitant
 26 Reserve.

27 *SEC. 280. Section 26810 of the Education Code is*
 28 *amended to read:*

29 26810. (a) A participant who is employed to perform
 30 creditable service subject to coverage by the ~~plan~~ *Cash*
 31 *Balance Benefit Program* while receiving an annuity
 32 *under the program* may voluntarily terminate the
 33 annuity upon employment and make contributions to the
 34 ~~plan~~ *program* based on salary paid by the employer for
 35 the employment, provided the participant has attained
 36 age 60 and has been receiving a retirement annuity for at
 37 least one year. The participant shall continue to be
 38 subject to Section 26808.

39 (b) The participant shall request in writing within 60
 40 days of employment that the annuity be terminated.

1 Termination of the participant's annuity shall become
2 effective on the first day of the month following the
3 month in which verification of the participant's
4 employment is received by the system from the
5 participant's employer.

6 (c) Upon voluntary termination of the annuity, the
7 employee and employer account of the participant shall
8 be credited with respective balances that reflect the
9 actuarial equivalent of the participant's retirement
10 benefit as of the date the participant terminates the
11 annuity and the Annuitant Reserve shall be reduced by
12 the amount of the credits.

13 (d) The portion of the annuity derived from the
14 amounts credited to the employee account and employer
15 account, as of the date the participant terminates the
16 annuity, shall be calculated using the actuarial
17 assumptions in effect on the initial retirement date using
18 the age of the participant and, if the participant elected
19 a joint and survivor option the age of the beneficiary on
20 the current retirement date.

21 (e) Upon election of a subsequent annuity, the credits
22 in the participant's employee account and employer
23 account shall be transferred to the Annuitant Reserve.

24 *SEC. 281. Section 26811 of the Education Code is*
25 *amended to read:*

26 26811. The beneficiary under the joint and survivor
27 option elected pursuant to paragraph (3) or (4) of
28 subdivision (b) of Section 26807 shall be the person
29 designated by the participant on the application for a
30 retirement benefit *under this part*, and shall not be
31 changed after the original retirement date unless the
32 beneficiary has predeceased the participant.

33 *SEC. 282. Section 26900 of the Education Code is*
34 *amended to read:*

35 26900. A participant may apply to receive a disability
36 benefit *under this part* at any time.

37 *SEC. 283. Section 26901 of the Education Code is*
38 *amended to read:*

39 26901. Application for a disability benefit *under this*
40 *part* shall be made by the participant, or the guardian or

1 conservator of the participant, on a form prescribed by
2 the system.

3 *SEC. 284. Section 26902 of the Education Code is*
4 *amended to read:*

5 26902. (a) A disability benefit *under this part* shall
6 become payable only upon determination by the board
7 that the participant has a total and permanent disability.
8 The board shall require current relevant medical reports
9 by licensed practitioners, including the report of the
10 treating physician, and may make any inquiries necessary
11 to the determination of total and permanent disability.
12 Failure of the participant, or the participant's guardian or
13 conservator, to provide any documents, complete any
14 forms, or respond to any questions from the board within
15 45 days of the request may be cause for rejection of the
16 application.

17 (b) Upon determination by the board that the
18 participant does not have a total and permanent
19 disability, the application for disability benefit, and any
20 designation of beneficiary for the benefit, shall be
21 automatically canceled.

22 *SEC. 285. Section 26903 of the Education Code is*
23 *amended to read:*

24 26903. All creditable service subject to coverage by
25 the ~~plan~~ *Cash Balance Benefit Program and Defined*
26 *Benefit Program* shall be terminated prior to the
27 disability date.

28 *SEC. 286. Section 26905 of the Education Code is*
29 *amended to read:*

30 26905. The normal form of disability benefit *under*
31 *this part* is a lump-sum payment. Upon distribution of the
32 lump-sum payment to the participant, no further benefits
33 shall be payable from the ~~plan~~ *Cash Balance Benefit*
34 *Program*.

35 *SEC. 287. Section 26906 of the Education Code is*
36 *amended to read:*

37 26906. (a) Upon application for a disability benefit
38 *under this part*, the participant may elect to receive the
39 disability benefit in the form of an annuity provided the
40 sum of the employee account and employer account

1 equals or exceeds three thousand five hundred dollars
2 (\$3,500).

3 (b) The participant may elect one of the following
4 options:

5 (1) A single life annuity with a cash refund feature,
6 which is the actuarial equivalent of the lump sum payable
7 for the life of the participant with any balance remaining
8 upon the death of the participant payable in a lump sum
9 to the beneficiary.

10 (2) A single life annuity without a cash refund feature,
11 which is the actuarial equivalent of the lump sum payable
12 for the life of the participant.

13 (3) A 100-percent joint and survivor annuity, which is
14 the actuarial equivalent of the lump sum payable for the
15 combined lives of the participant and the beneficiary,
16 with the monthly amount payable to the participant
17 continuing to the surviving beneficiary upon the death of
18 the participant. However, if the option beneficiary
19 predeceases the participant, the annuity without
20 modification for the option shall be payable to the
21 participant upon notification to the board and shall
22 commence to accrue to the participant as of the day
23 following the date of death of the option beneficiary.
24 Notification to the board shall include proof of death of
25 the option beneficiary.

26 (4) A 50-percent joint and survivor annuity, which is
27 the actuarial equivalent of the lump sum payable for the
28 combined lives of the participant and the beneficiary,
29 with one-half of the monthly amount payable to the
30 participant continuing to the surviving beneficiary upon
31 the death of the participant. However, if the option
32 beneficiary predeceases the participant, the annuity
33 without modification for the option shall be payable to the
34 participant upon notification to the board and shall
35 commence to accrue to the participant as of the day
36 following the date of death of the option beneficiary.
37 Notification to the board shall include proof of death of
38 the option beneficiary.

39 (5) A period certain annuity, which is the lump sum
40 payable over a specified number of years, from a

1 minimum of three years to a maximum of 10 years but in
2 any event not to exceed the life expectancy of the
3 participant or the life expectancy of the participant and
4 the participant's option beneficiary, until there is no
5 balance remaining in the participant's employee account
6 and employer account.

7 ~~SEC. 55.5.~~

8 *SEC. 288. Section 26908 of the Education Code is*
9 *amended to read:*

10 26908. Upon election of an annuity *under this part*,
11 the credits in the participant's employee account and
12 employer account shall be transferred to the Annuitant
13 Reserve.

14 *SEC. 289. Section 26911 of the Education Code is*
15 *amended to read:*

16 26911. If a participant who is receiving a disability
17 annuity *under this part* becomes reemployed prior to 60
18 years of age to perform creditable service subject to
19 coverage by the Cash Balance ~~Plan~~ *Benefit Program* or
20 the Defined Benefit ~~Plan~~ *Program*, the disability annuity
21 shall be terminated.

22 *SEC. 290. Section 27001 of the Education Code is*
23 *amended to read:*

24 27001. Notwithstanding Chapter 3 (commencing
25 with Section 13100) of Part 1 of Division 8 of the Probate
26 Code or any other provision of law to the contrary, the
27 death benefit payable under the ~~plan~~ *Cash Balance*
28 *Benefit Program* may be requested by the beneficiary
29 and paid by the system as soon as practicable after the
30 system receives proof of the participant's death. Except
31 as provided in Section 27302, the death benefit under ~~the~~
32 ~~plan~~ *this part* shall be paid no later than December 31 of
33 the calendar year in which the fifth anniversary of the
34 participant's date of death occurs unless the beneficiary
35 is the participant's spouse in which case distributions
36 must commence on or before the later of either of:

37 (a) December 31 of the calendar year immediately
38 following the calendar year in which the participant dies.

39 (b) December 31 of the calendar year in which the
40 participant would have attained the age of 70¹/₂ years.

1 SEC. 291. Section 27003 of the Education Code is
2 amended to read:

3 27003. The normal form of death benefit *under this*
4 *part* is a lump-sum payment. Upon distribution of the
5 lump-sum payment to the beneficiary, no further benefits
6 shall be payable from the plan *with respect to the Cash*
7 *Balance Benefit Program*.

8 SEC. 292. Section 27006 of the Education Code is
9 amended to read:

10 27006. Upon the beneficiary's election to receive the
11 death benefit *under this part* in the form of an annuity,
12 the credits in the participant's employee account and
13 employer account shall be transferred to the Annuitant
14 Reserve.

15 SEC. 293. Section 27007 of the Education Code is
16 amended to read:

17 27007. (a) If the participant died while receiving an
18 annuity *under this part*, the death benefit shall be payable
19 in accordance with the terms of the annuity elected by
20 the participant.

21 (b) Upon the death of a participant who elected a
22 single life annuity with a cash refund feature *under this*
23 *part*, any balance remaining in the participant's
24 employee account and employer account shall be payable
25 in a lump sum to the beneficiary.

26 (c) Upon the death of a participant who elected a
27 single life annuity without a cash refund feature *under*
28 *this part*, no death benefit shall be payable.

29 (d) Upon the death of a participant who elected a joint
30 and survivor annuity *under this part*, the annuity shall
31 continue for life to the surviving beneficiary under the
32 joint and survivor option. If the beneficiary under the
33 joint and survivor option has predeceased the participant,
34 no death benefit shall be payable.

35 (e) Upon the death of a participant who elected a
36 period certain annuity *under this part* prior to the
37 completion of annuity payments due the participant, any
38 balance remaining in the participant's employee account
39 and employer account shall be payable in a lump sum to
40 the beneficiary.

1 *SEC. 294. Section 27008 of the Education Code is*
2 *amended to read:*

3 27008. Upon the death of a beneficiary who was
4 receiving an annuity *under this part* due to the death of
5 a participant, payment shall be made as follows:

6 (a) Upon the death of a beneficiary under a joint and
7 survivor option, no amount shall be payable.

8 (b) Upon the death of a beneficiary who elected a
9 single life annuity without a cash refund feature, no
10 amount shall be payable.

11 (c) Upon the death of a beneficiary who elected a
12 period certain annuity prior to the completion of annuity
13 payments due the beneficiary, any balance remaining in
14 the participant's employee account and employer
15 account shall be payable in a lump sum to the estate of the
16 beneficiary.

17 *SEC. 295. Section 27100 of the Education Code is*
18 *amended to read:*

19 27100. A participant may at any time designate or
20 change the designation of one or more primary
21 beneficiaries and one or more contingent beneficiaries to
22 receive any lump-sum death benefit that may be payable
23 under the plan. The beneficiary for the lump-sum death
24 benefit *under this part* may be a person, trust, or the
25 estate of the participant. The beneficiary shall be
26 designated on a form prescribed by the system that is
27 received in the system's office in Sacramento before the
28 participant's death.

29 *SEC. 296. Section 27101 of the Education Code is*
30 *amended to read:*

31 27101. In the event the participant dies without a
32 valid beneficiary designation on file with the system, any
33 lump-sum death benefit *under this part* shall be payable
34 to the estate of the participant.

35 *SEC. 297. Section 27200 of the Education Code is*
36 *amended to read:*

37 27200. Upon termination of all creditable service
38 subject to coverage by the plan *under this part and Part*
39 13 (*commencing with Section 22000*) for any reason other
40 than death, disability, or retirement, a participant may

1 apply for a lump-sum termination benefit *under this part*
2 which shall be an amount that is equal to the sum of the
3 *participant's* employee account and the employer
4 account as of the date the *termination* benefit is paid.

5 SEC. 298. Section 27201 of the Education Code is
6 amended to read:

7 27201. (a) All creditable service subject to coverage
8 by the ~~plan~~ Cash Balance Benefit Program and all service
9 with the participants' last employer or employers that is
10 creditable service under the Defined Benefit ~~Plan~~
11 Program shall terminate prior to application for a
12 termination benefit *under this part*.

13 (b) All employers with which the participant is
14 employed to perform creditable service subject to
15 coverage by the plan shall certify on a form prescribed by
16 the system that the participant's employment has been
17 terminated.

18 SEC. 299. Section 27202 of the Education Code is
19 amended to read:

20 27202. Application for a termination benefit *under*
21 *this part* shall be made on an application form prescribed
22 by the system.

23 SEC. 300. Section 27203 of the Education Code is
24 amended to read:

25 27203. A participant may not apply for a termination
26 benefit *under this part* if less than five years have elapsed
27 following the date the most recent termination benefit
28 was distributed to the participant.

29 SEC. 301. Section 27204 of the Education Code is
30 amended to read:

31 27204. The termination benefit *under this part* shall
32 not be payable before one year has elapsed following the
33 date of termination of employment. The application for
34 the termination benefit shall be automatically canceled if
35 the participant performs creditable service within the
36 year following the date of termination of employment.

37 SEC. 302. Section 27205 of the Education Code is
38 amended to read:

1 27205. A participant may cancel the application for a
2 termination benefit *under this part* at any time prior to
3 distribution of the benefit.

4 *SEC. 303. Section 27207 of the Education Code is*
5 *amended to read:*

6 27207. Upon distribution of the lump-sum payment to
7 the participant *under this part*, no further benefits shall
8 be payable from the plan *under this part*.

9 *SEC. 304. Section 27300 of the Education Code is*
10 *amended to read:*

11 27300. (a) The plan's obligations *under this part* to a
12 participant or beneficiary who has applied for a benefit
13 cease upon distribution of the lump-sum benefit.

14 (b) Deposit in the United States mail of a warrant
15 drawn as directed by the participant or beneficiary and
16 addressed as directed by the participant or beneficiary
17 constitutes distribution of the benefits *under this part*.

18 (c) Deposit in the United States mail of a notice that
19 the requested electronic funds transfer has been made as
20 directed by the participant or beneficiary constitutes
21 distribution of the benefits *under this part*.

22 (d) If the participant or beneficiary has elected to
23 transfer all or a specified portion of the lump-sum benefit
24 that is eligible for direct trustee-to-trustee transfer to the
25 trustee of an eligible retirement plan within the meaning
26 of Section 401(a)(31) of Title 26 of the United States
27 Code, deposit in the United States mail of a notice that the
28 requested transfer has been made constitutes distribution
29 of the benefits *under this part*.

30 (e) Distribution under subdivision (b), (c), or (d)
31 pursuant to the board's determination in good faith of the
32 existence, identity, or other facts relating to entitlement
33 of persons constitutes a complete discharge and release of
34 the plan from liability for that payment *under this part*.

35 *SEC. 305. Section 27302 of the Education Code is*
36 *amended to read:*

37 27302. If a benefit *payable under this part* cannot be
38 distributed because, after a good faith effort, the
39 participant or beneficiary cannot be located, the balances
40 in the participant's employee account and employer

1 account shall be forfeited by the participant or
2 beneficiary, but if the participant or beneficiary
3 thereafter submits a valid claim to the system the
4 employee and employer accounts shall be reinstated and
5 shall be credited with all applicable interest at the
6 minimum interest rate and additional earnings credit
7 amounts attributable to the period during which the
8 forfeiture was in effect.

9 *SEC. 306. Section 27303 of the Education Code is*
10 *amended to read:*

11 27303. Any overpayment to a participant or
12 beneficiary *under this part* shall be deducted from any
13 subsequent benefit payment that may be payable under
14 the plan, except as provided in Section 26302.

15 *SEC. 307. Section 27400 of the Education Code is*
16 *amended to read:*

17 27400. This chapter establishes the power of a court in
18 a dissolution of marriage or legal separation action with
19 respect to community property rights in benefits under
20 ~~the plan~~ *this part* and defines the rights of nonparticipant
21 spouses in the Cash Balance ~~Plan~~ *Benefit Program*.

22 *SEC. 308. Section 27403 of the Education Code is*
23 *amended to read:*

24 27403. The nonparticipant spouse who is awarded
25 separate nominal accounts pursuant to Section 24702 is
26 not a participant of the ~~plan~~ *Cash Balance Benefit*
27 *Program*. The nonparticipant spouse is entitled only to
28 rights and benefits explicitly established by this chapter.

29 *SEC. 309. Section 27404 of the Education Code is*
30 *amended to read:*

31 27404. The nonparticipant spouse is entitled to no
32 benefits or rights from the separate nominal accounts
33 except as otherwise provided in this chapter. However,
34 this section shall not be construed to limit any right arising
35 from the accounts of a nonparticipant with *respect to the*
36 ~~plan~~ *Cash Balance Benefit Program* which exists because
37 the nonparticipant spouse is employed to perform
38 creditable service subject to coverage by the ~~plan~~
39 *program*.

1 *SEC. 310. Section 27406 of the Education Code is*
2 *amended to read:*

3 27406. The nonparticipant spouse who is awarded
4 separate nominal accounts *with respect to the Cash*
5 *Balance Benefit Program* shall have the right to a
6 lump-sum distribution of amounts credited to the
7 account.

8 (a) The nonparticipant spouse shall file an application
9 on a form provided by the system to obtain the
10 distribution.

11 (b) The distribution is effective when the system
12 deposits in the United States mail a warrant drawn in
13 favor of the nonparticipant spouse and addressed to the
14 latest address for the nonparticipant spouse on file with
15 the system. If the nonparticipant spouse has elected on a
16 form provided by the system to transfer all or a specified
17 portion of the accounts that are eligible for direct
18 trustee-to-trustee transfer under Section 401(a)(31) of
19 Title 26 of the United States Code to the trustee of a
20 qualified plan under Section 402 of Title 26 of the United
21 States Code, deposit in the United States mail of a notice
22 that the requested transfer has been made constitutes a
23 distribution of the nonparticipant spouse's credit balance
24 from the separate nominal accounts.

25 (c) The nonparticipant spouse is deemed to have
26 permanently waived all rights to an annuity when the
27 distribution becomes effective.

28 (d) The nonparticipant spouse may not cancel a
29 distribution after the distribution is effective.

30 (e) The nonparticipant spouse shall have no right to
31 elect to redeposit the distribution after the distribution is
32 effective.

33 *SEC. 311. Section 27407 of the Education Code is*
34 *amended to read:*

35 27407. No judgment or court order issued pursuant to
36 this chapter is binding on the plan *with respect to the*
37 *Cash Balance Benefit Program* until the plan has been
38 joined as a party to the action and has been served with
39 a certified copy of the judgment or court order.

1 *SEC. 312.* Section 27410 of the Education Code is
2 amended to read:

3 27410. (a) The nonparticipant spouse who is
4 awarded separate nominal accounts shall have the right
5 to designate, pursuant to Sections 27100 to 27102,
6 inclusive, a beneficiary or beneficiaries to receive the
7 accounts credited to the separate nominal accounts of the
8 nonparticipant spouse on his or her date of death, and any
9 annuity attributable to the separate nominal accounts
10 which is unpaid on the date of the death of the
11 nonparticipant spouse.

12 (b) This section shall not be construed to provide the
13 nonparticipant spouse with any right to elect a joint and
14 survivor annuity pursuant to paragraphs (3) and (4) of
15 subdivision (b) of Section 26807.

16 ~~SEC. 56.~~

17 *SEC. 313.* Section 27411 of the Education Code is
18 amended to read:

19 27411. The nonparticipant spouse who is awarded a
20 separate nominal account *under this part* shall have the
21 right to an annuity pursuant to paragraphs (1), (2), or (5)
22 of subdivision (b) of Section 26807.

23 (a) The nonparticipant spouse shall be eligible for an
24 annuity if the following conditions are satisfied:

25 (1) The nonparticipant spouse has at least three
26 thousand five hundred dollars (\$3,500) in his or her
27 separate nominal accounts.

28 (2) The nonparticipant spouse has attained the age of
29 55 years or more.

30 (b) An annuity of a nonparticipant spouse shall
31 become effective upon any date designated by the
32 nonparticipant spouse, provided:

33 (1) The requirements of subdivision (a) are satisfied.

34 (2) The nonparticipant spouse has filed an application
35 for an annuity on a form provided by the system, which
36 is executed no earlier than 90 days before the effective
37 date of the annuity.

38 ~~SEC. 57.~~

39 *SEC. 314.* Section 28000 of the Education Code is
40 amended to read:

1 28000. (a) The Legislature hereby finds and declares
2 its intent to preserve and protect the rights of
3 reemployed participants who have been absent from a
4 position of employment covered by the ~~plan~~ *Cash*
5 *Balance Benefit Program* to serve in the uniformed
6 services of the United States of America in accordance
7 with the Uniformed Services Employment and
8 Reemployment Rights Act of 1994 (Chapter 43
9 (commencing with Section 4301) of Title 38 of the United
10 States Code).

11 (b) The plan shall comply with Chapter 43
12 (commencing with Section 4301) of Title 38 of the United
13 States Code, as that chapter may be amended from time
14 to time.

15 (c) The term “service in the uniformed services”
16 means the performance of duty on a voluntary or
17 involuntary basis in a uniformed service under
18 competent authority and includes active duty, active
19 duty for training, initial active duty for training, inactive
20 duty training, and a period for which a participant is
21 absent from a position of employment for the purpose of
22 an examination to determine the fitness of the participant
23 to perform any such duty.

24 (d) The term “uniformed services” means the Armed
25 Forces of the United States of America, the Army
26 National Guard and the Air National Guard when
27 engaged in active duty for training, inactive duty
28 training, or full-time National Guard duty, the
29 commissioned corps of the Public Health Service, and any
30 other category of persons designated by the President in
31 time of war or emergency.

32 (e) No entitlement of the right to contribute toward
33 credits under the ~~plan~~ *Cash Balance Benefit Program*
34 pursuant to this chapter by the participant as a result of
35 service in the uniformed services shall accrue if the
36 participant does not return to employment with the same
37 employer or employers which employed the participant
38 immediately prior to the eligible period of service in the
39 uniformed services as prescribed in Chapter 43

1 (commencing with Section 4301) of Title 38 of the United
2 States Code.

3 *SEC. 315. Section 28001 of the Education Code is*
4 *amended to read:*

5 28001. (a) The participant who returns to
6 employment with the same employer which had
7 employed the participant immediately prior to the
8 eligible period of service in the uniformed services, in
9 accordance with the requirements of Chapter 43
10 (commencing with Section 4301) of Title 38 of the United
11 States Code, shall be treated as not having incurred a
12 break in the performance of creditable service by reason
13 of that participant's period or periods of service in the
14 uniformed services. The length of each period of service
15 in the uniformed services shall not exceed five years
16 unless otherwise permitted pursuant to Section 28004.
17 Each period of service in the uniformed services by the
18 participant shall, upon that participant's return to
19 employment with the same employer or employers
20 which had employed the participant immediately prior
21 to the eligible period of service in the uniformed services,
22 constitute employment toward the performance of
23 creditable service provided that participant elects to
24 remit the employee contributions that would have been
25 made during the period of service in the uniformed
26 services. The remittance of employee contributions shall
27 be calculated pursuant to Sections 26501 and 28003. In no
28 event shall that remittance exceed the amount the
29 participant would have been required to contribute
30 during that period of performance of creditable service
31 had the participant remained continuously employed by
32 the last employer and not served in the uniformed
33 services throughout that period.

34 (b) Notwithstanding Section 26506, remittance of
35 employee contributions in accordance with subdivision
36 (a) shall be made by the employer pursuant to Section
37 26502 upon the employer's receipt of written consent of
38 the participant specifying a schedule of repayments. That
39 remittance shall commence during the period beginning
40 with the date of return to employment and may continue

1 for three times the period of the participant's eligible
 2 period of service in the uniformed services, not to exceed
 3 five years. The plan's receipt of the remittance payments
 4 to the plan *with respect to the Cash Balance Benefit*
 5 *Program* shall be credited pursuant to Chapter 7 of this
 6 part. Interest on the payments of remitted employee
 7 contributions made for the period of service in the
 8 uniformed services shall not be credited in the
 9 participant's account until after such payments are
 10 received and only prospectively to the participant's
 11 account in accordance with Section 26604. Upon receipt
 12 of the remittance payments to the plan, the payments
 13 shall be subject to the same terms and conditions under
 14 the ~~plan~~ program as if the payments had been employee
 15 contributions made by the participant had the
 16 participant not served for a period in the uniformed
 17 services. In no event shall the current year contributions
 18 and contributions made for purposes of purchasing
 19 service exceed the maximum exclusion allowance as set
 20 forth in the Internal Revenue Code.

21 *SEC. 316. Section 28002 of the Education Code is*
 22 *amended to read:*

23 28002. (a) Except as provided in subdivision (b), an
 24 employer reemploying a participant with service subject
 25 to the requirements of Chapter 43 (commencing with
 26 Section 4301) of Title 38 of the United States Code, shall
 27 be liable to remit the employer contributions provided
 28 that employer employed the participant immediately
 29 prior to the eligible period of service in the uniformed
 30 services. That remittance shall exclude interest and the
 31 contribution rate by the employer shall be to the same
 32 extent as that for contributions to the ~~plan~~ *Cash Balance*
 33 *Benefit Program* for other employees during the same
 34 period. The employer shall, within 30 days of the date of
 35 reemployment, provide information as required by the
 36 board, on a form provided by the system, notifying the
 37 system of reemployment. Following receipt of that
 38 notice, the ~~plan~~ system shall calculate in accordance with
 39 Section 28003 the total amount of employer contributions
 40 due for the participant for the full period of service in the

1 uniformed services. Within 60 working days of
2 notification by the plan of amount due, the employer shall
3 remit to the plan all employer contributions.

4 (b) The employer shall not be liable for employer
5 contributions for the period of service in the uniformed
6 services if the participant elects not to remit the
7 employee contributions for that period through the
8 employer as required under Section 28001. In the event
9 the participant does not remit all of the employee
10 contributions within the prescribed repayment period,
11 the total amount of the employer contributions shall
12 remain with the plan and credited to the participant's
13 employer account *with respect to the Cash Balance*
14 *Benefit Program*.

15 *SEC. 317. Section 28004 of the Education Code is*
16 *amended to read:*

17 28004. A participant who is absent from a position of
18 employment subject to the ~~plan~~ *Cash Balance Benefit*
19 *Program* due to that participant's service in the
20 uniformed services, shall not be entitled to obtain the
21 right to contribute toward credits under the plan in
22 excess of five years of service in the uniformed services,
23 except for the following reasons:

24 (a) The participant is required to serve beyond five
25 years to complete an initial period of obligated service in
26 the uniformed services;

27 (b) The participant was unable to obtain orders
28 releasing the participant from a period of service in the
29 uniformed services before the expiration of the five-year
30 period and that inability was through no fault of the
31 participant;

32 (c) The participant served in the uniformed services
33 as required pursuant to Section 270 of Title 10, under
34 Section 502(a) or 503 of Title 32 of the United States Code,
35 or to fulfill additional training requirements determined
36 and certified in writing by the Secretary of Defense, to be
37 necessary for professional development, or for
38 completion of skill training or retraining; or

39 (d) The participant is:

1 (1) Ordered to or retained on active duty under
2 Section 672(a), 672(g), 673, 673b, 673c, or 688 of Title 10
3 or under Section 331, 332, 359, 360, 367, or 712 of Title 14
4 of the United States Code.

5 (2) Ordered to or retained on active duty, other than
6 for training, under any provision of law during a war or
7 during a national emergency declared by the President
8 or the Congress.

9 (3) Ordered to active duty, other than for training, in
10 support, as determined by the secretary concerned, of an
11 operational mission for which personnel have been
12 ordered to active duty under Section 673b of Title 10 of
13 the United States Code.

14 (4) Ordered to active duty in support, as determined
15 by the secretary concerned, of a critical mission or
16 requirement of the uniformed services.

17 (5) Called into federal service as a participant of the
18 National Guard under Chapter 15 of Title 10 or under
19 Section 3500 or 8500 of Title 10 of the United States Code.

20 *SEC. 318. Section 28005 of the Education Code is*
21 *amended to read:*

22 28005. A participant's entitlement to the right to
23 contribute toward credits under the ~~plan~~ *Cash Balance*
24 *Benefit Program* pursuant to this chapter by reason of the
25 service in the uniformed services terminates upon the
26 occurrence of any of the following events:

27 (a) A separation of the participant from the uniformed
28 service with a dishonorable or bad conduct discharge.

29 (b) A separation of the participant from the
30 uniformed service under other than honorable
31 conditions, as characterized pursuant to regulations
32 prescribed by the secretary concerned.

33 (c) A dismissal of the participant permitted under
34 Section 1161(a) of Title 10 of the United States Code.

35 (d) A dropping of the participant from the rolls
36 pursuant to Section 1161(b) of Title 10 of the United
37 States Code.

38 *SEC. 319. Section 28100 of the Education Code is*
39 *amended to read:*

1 28100. (a) The employer may discontinue providing
2 the Cash Balance Plan at anytime in accordance with the
3 terms and conditions of the employer's governing board's
4 formal action to provide the plan.

5 (b) The employer shall notify the system of the
6 decision to discontinue the plan no less than 90 calendar
7 days prior to the effective date of discontinuance. Such
8 notice shall be submitted on a form prescribed by the
9 system.

10 ~~SEC. 58.~~

11 *SEC. 320.* Section 44929 of the Education Code is
12 amended to read:

13 44929. (a) Whenever the governing board of a school
14 district or a county office of education, by formal action
15 taken prior to January 1, 2004, determines that because of
16 impending curtailment of or changes in the manner of
17 performing services, the best interests of the district or
18 county office of education would be served by
19 encouraging the retirement of certificated employees
20 and that the retirement will either: result in a net savings
21 to the district or county office of education; result in a
22 reduction of the number of certificated employees as a
23 result of declining enrollment; or result in the retention
24 of certificated employees who are credentialed to teach
25 in teacher shortage disciplines, including, but not limited
26 to, mathematics and science, an additional two years of
27 service shall be credited under the State Teachers'
28 Retirement Defined Benefit Program to a certificated
29 employee pursuant to Section 22714 if all of the following
30 conditions exist:

31 (1) The employee is credited with five or more years
32 of service under the State Teachers' Retirement Defined
33 Benefit Program and retires during a period of not more
34 than 120 days or less than 60 days, commencing no sooner
35 than the effective date of the formal action of the district
36 or county superintendent of schools that shall specify the
37 period.

38 (2) The district or county office of education transmits
39 to the retirement fund an amount determined by the
40 Teachers' Retirement Board that equals the actuarial

1 equivalent of the difference between the allowance the
2 member receives after the receipt of service credit under
3 this section and Section 22714 and the amount the
4 member would have received without the service credit
5 and an amount determined by the Teachers' Retirement
6 Board that equals the actuarial equivalent of the
7 difference between the purchasing power protection
8 supplemental payment the member receives after
9 receipt of additional service credit pursuant to this
10 section and the amount the member would have received
11 without the additional service credit. The payment for
12 purchasing power shall be deposited in the Supplemental
13 Benefit Maintenance Account established by Section
14 22400 and shall be subject to Sections 24414 and 24415. The
15 transfer to the retirement fund shall be made in a
16 manner, and time period that shall not exceed four years,
17 that is acceptable to the Teachers' Retirement Board. The
18 school district or county office of education shall make the
19 payment with respect to all eligible employees who
20 retired pursuant to this section and Section 22714.

21 (3) The district or county office of education transmits
22 to the retirement fund the administrative costs incurred
23 by the State Teachers' Retirement System in
24 implementing this section, as determined by the
25 Teachers' Retirement Board.

26 (4) The governing board of the school district or the
27 county office of education has considered the availability
28 of teachers to fill the positions that would be vacated
29 pursuant to this section.

30 (b) (1) The school district shall demonstrate and
31 certify to the county superintendent that the formal
32 action taken would result in either: (A) a net savings to
33 the district; (B) a reduction of the number of certificated
34 employees as a result of declining enrollment, as
35 computed pursuant to Section 42238.5; or (C) the
36 retention of certificated employees who are credentialed
37 to teach in teacher shortage disciplines.

38 (2) The county superintendent shall certify to the
39 Teachers' Retirement Board that a result specified in
40 paragraph (1) can be demonstrated. The certification

1 shall include, but not be limited to, the information
2 specified in subdivision (b) of Section 14502. A district
3 that qualifies under clause (B) of paragraph (1) shall also
4 certify that it qualifies as a declining enrollment district
5 as computed pursuant to Section 42238.5.

6 (3) The school district shall reimburse the county
7 superintendent for all the costs of the county
8 superintendent that result from the certification.

9 (c) (1) The county office of education shall
10 demonstrate and certify to the Superintendent of Public
11 Instruction that the formal action taken would result in
12 either: (A) a net savings to the county office of education;
13 (B) a reduction of the number of certificated employees
14 as a result of declining enrollment; or (C) the retention
15 of certificated employees who are credentialed to teach
16 in teacher shortage disciplines.

17 (2) The Superintendent of Public Instruction shall
18 certify to the Teachers' Retirement Board that a result
19 specified in paragraph (1) can be demonstrated. The
20 certification shall include, but not be limited to, the
21 information specified in subdivision (b) of Section 14502.

22 (3) The Superintendent of Public Instruction may
23 request reimbursement from the county office of
24 education for all administrative costs that result from the
25 certification.

26 (d) The service credit made available pursuant to this
27 section shall be available to all members employed by the
28 school district or county office of education who meet the
29 conditions set forth in this section.

30 (e) The amount of service credit shall be two years.

31 (f) Any employee who retires with service credit
32 granted under this section and Section 22714 and who
33 subsequently reinstates, shall forfeit the service credit
34 granted under this section and Section 22714.

35 (g) This section shall not be applicable to any
36 employee otherwise eligible if the employee receives any
37 unemployment insurance payments arising out of
38 employment with an employer subject to Part 13
39 (commencing with Section 22000) during a period
40 extending one year beyond the effective date of the

1 formal action, or if the employee is not otherwise eligible
2 to retire for service under the State Teachers' Retirement
3 Defined Benefit Program.

4 ~~SEC. 59.~~

5 *SEC. 321.* Section 87488 of the Education Code is
6 amended to read:

7 87488. (a) Whenever the governing board of a
8 community college district, by formal action taken prior
9 to January 1, 2004, determines that because of impending
10 curtailment of or changes in the manner of performing
11 services, the best interests of the district would be served
12 by encouraging the retirement of academic employees
13 and that the retirement will either: result in a net savings
14 to the district; result in a reduction of the number of
15 academic employees as a result of declining enrollment;
16 or result in the retention of faculty who are qualified to
17 teach in areas of teacher shortage, including, but not
18 limited to, mathematics and science, an additional two
19 years of service shall be credited under the State
20 Teachers' Retirement Defined Benefit Program to an
21 academic employee pursuant to Section 22714 if all of the
22 following conditions exist:

23 (1) The employee is credited with five or more years
24 of service under the State Teachers' Retirement Defined
25 Benefit Program and retires during a period not more
26 than 120 days or less than 60 days, commencing no sooner
27 than the effective date of the formal action of the district
28 that shall specify the period.

29 (2) The governing board transmits to the retirement
30 fund an amount determined by the Teachers' Retirement
31 Board that equals the actuarial equivalent of the
32 difference between the allowance the member receives
33 after the receipt of service credit under this section and
34 Section 22714 and the amount the member would have
35 received without the service credit and an amount
36 determined by the Teachers' Retirement Board that
37 equals the actuarial equivalent of the difference between
38 the purchasing power protection supplemental payment
39 the member receives after receipt of additional service
40 credit pursuant to this section and the amount the

1 member would have received without the additional
2 service credit. The payment for purchasing power shall
3 be deposited in the Supplemental Benefit Maintenance
4 Account established by Section 22400 and shall be subject
5 to Sections 24414 and 24415. The transfer to the
6 retirement fund shall be made in a manner and in a time
7 period that shall not exceed four years, that is acceptable
8 to the Teachers' Retirement Board. The community
9 college district shall make the payment with respect to all
10 eligible employees who retired pursuant to this section
11 and Section 22714.

12 (3) The governing board transmits to the retirement
13 fund the administrative costs incurred by the State
14 Teachers' Retirement System in implementing this
15 section, as determined by the Teachers' Retirement
16 Board.

17 (4) The governing board of the community college
18 district has considered the availability of academic
19 employees to fill the positions that would be vacated
20 pursuant to this section.

21 (b) (1) The community college district shall
22 demonstrate and certify to the chancellor's office that the
23 formal action taken would result in either: (A) a net
24 savings to the district; (B) a reduction in the number of
25 academic employees as a result of declining enrollment,
26 as computed pursuant to subdivision (c) of Section 84701;
27 or (C) the retention of faculty who are qualified to teach
28 in teacher shortage disciplines.

29 (2) The chancellor shall certify to the Teachers'
30 Retirement Board that the results specified in paragraph
31 (1) can be demonstrated. The certification shall include,
32 but not be limited to, the information specified in
33 subdivision (c) of Section 84040.5. A community college
34 district that qualifies under clause (B) of paragraph (1)
35 shall also certify that it qualifies as a declining enrollment
36 district as computed pursuant to subdivision (c) of
37 Section 84701.

38 (3) The chancellor may request reimbursement from
39 the community college district for all administrative costs
40 that result from the certification.

1 (c) The service credit made available pursuant to this
2 section shall be available to all members employed by the
3 community college district who meet the conditions set
4 forth in this section.

5 (d) The amount of service credit shall be two years.

6 (e) Any employee who retires with service credit
7 granted under this section and Section 22714 and
8 subsequently reinstates, shall forfeit the service credit
9 granted under this section and Section 22714.

10 (f) This section shall not be applicable to any
11 employee otherwise eligible if the employee receives any
12 unemployment insurance payments arising out of
13 employment with an employer subject to Part 13
14 (commencing with Section 22000) during a period
15 extending one year beyond the effective date of the
16 formal action, or if the employee is not otherwise eligible
17 to retire for service under the State Teachers' Retirement
18 Defined Benefit Program.

19 ~~SEC. 60.~~

20 *SEC. 322. Section 2610 of the Family Code is amended*
21 *to read:*

22 2610. (a) Except as provided in subdivision (b), the
23 court shall make whatever orders are necessary or
24 appropriate to ensure that each party receives the party's
25 full community property share in any retirement plan,
26 whether public or private, including all survivor and
27 death benefits, including, but not limited to, any of the
28 following:

29 (1) Order the disposition of any retirement benefits
30 payable upon or after the death of either party in a
31 manner consistent with Section 2550.

32 (2) Order a party to elect a survivor benefit annuity or
33 other similar election for the benefit of the other party,
34 as specified by the court, in any case in which a
35 retirement plan provides for such an election, provided
36 that no court shall order a retirement plan to provide
37 increased benefits determined on the basis of actuarial
38 value.

39 (3) Upon the agreement of the nonemployee spouse,
40 order the division of accumulated community property

1 contributions and service credit as provided in the
2 following or similar enactments:

3 (A) Article 1.2 (commencing with Section 21215) of
4 Chapter 9 of Part 3 of Division 5 of Title 2 of the
5 Government Code.

6 (B) Chapter 12 (commencing with Section 22650) of
7 ~~Part 13 of the Education Code.~~

8 (C) Article 8.4 (commencing with Section 31685) of
9 Chapter 3 of Part 3 of Division 4 of Title 3 of the
10 Government Code.

11 (D) Article 2.5 (commencing with Section 75050) of
12 Chapter 11 of Title 8 of the Government Code.

13 (E) *Chapter 15 (commencing with Section 27400) of*
14 *Part 14.*

15 (4) Order a retirement plan to make payments
16 directly to a nonmember party of his or her community
17 property interest in retirement benefits.

18 (b) A court shall not make any order that requires a
19 retirement plan to do either of the following:

20 (1) Make payments in any manner that will result in
21 an increase in the amount of benefits provided by the
22 plan.

23 (2) Make the payment of benefits to any party at any
24 time before the member retires, except as provided in
25 paragraph (3) of subdivision (a), unless the plan so
26 provides.

27 (c) This section shall not be applied retroactively to
28 payments made by a retirement plan to any person who
29 retired or died prior to January 1, 1987, or to payments
30 made to any person who retired or died prior to June 1,
31 1988, for plans subject to paragraph (3) of subdivision (a).

32 *SEC. 323.* Section 3543.2 of the Government Code is
33 amended to read:

34 3543.2. (a) The scope of representation shall be
35 limited to matters relating to wages, hours of
36 employment, and other terms and conditions of
37 employment. "Terms and conditions of employment"
38 mean health and welfare benefits as defined by Section
39 53200, leave, transfer and reassignment policies, safety
40 conditions of employment, class size, procedures to be

1 used for the evaluation of employees, organizational
 2 security pursuant to Section 3546, procedures for
 3 processing grievances pursuant to Sections 3548.5, 3548.6,
 4 3548.7, and 3548.8, the layoff of probationary certificated
 5 school district employees, pursuant to Section 44959.5 of
 6 the Education Code, and alternative compensation or
 7 benefits for employees adversely affected by pension
 8 limitations pursuant to Section 22316 of the Education
 9 Code, to the extent deemed reasonable and without
 10 violating the intent and purposes of Section 415 of the
 11 Internal Revenue Code. In addition, the exclusive
 12 representative of certificated personnel has the right to
 13 consult on the definition of educational objectives, the
 14 determination of the content of courses and curriculum,
 15 and the selection of textbooks to the extent such matters
 16 are within the discretion of the public school employer
 17 under the law. All matters not specifically enumerated
 18 are reserved to the public school employer and may not
 19 be a subject of meeting and negotiating, provided that
 20 nothing herein may be construed to limit the right of the
 21 public school employer to consult with any employees or
 22 employee organization on any matter outside the scope
 23 of representation.

24 (b) Notwithstanding Section 44944 of the Education
 25 Code, the public school employer and the exclusive
 26 representative shall, upon request of either party, meet
 27 and negotiate regarding causes and procedures for
 28 disciplinary action, other than dismissal, including a
 29 suspension of pay for up to 15 days, affecting certificated
 30 employees. If the public school employer and the
 31 exclusive representative do not reach mutual agreement,
 32 then the provisions of Section 44944 of the Education
 33 Code shall apply.

34 (c) Notwithstanding Section 44955 of the Education
 35 Code, the public school employer and the exclusive
 36 representative shall, upon request of either party, meet
 37 and negotiate regarding procedures and criteria for the
 38 layoff of certificated employees for lack of funds. If the
 39 public school employer and the exclusive representative



1 do not reach mutual agreement, then the provisions of
2 Section 44955 of the Education Code shall apply.

3 (d) Notwithstanding Section 45028 of the Education
4 Code, the public school employer and the exclusive
5 representative shall, upon request of either party, meet
6 and negotiate regarding the payment of additional
7 compensation based upon criteria other than years of
8 training and years of experience. If the public school
9 employer and the exclusive representative do not reach
10 mutual agreement, then the provisions of Section 45028
11 of the Education Code shall apply.

12 (e) Pursuant to Section 45028 of the Education Code,
13 the public school employer and the exclusive
14 representative shall, upon the request of either party,
15 meet and negotiate a salary schedule based on criteria
16 other than a uniform allowance for years of training and
17 years of experience. If the public school employer and the
18 exclusive representative do not reach mutual agreement,
19 then the provisions of Section 45028 of the Education
20 Code requiring a salary schedule based upon a uniform
21 allowance for years of training and years of experience
22 shall apply. A salary schedule established pursuant to this
23 subdivision shall not result in the reduction of the salary
24 of any teacher.

25 SEC. 61. Section 22009.03 of the Government Code is
26 amended to read:

27 22009.03. "Public agency" also includes a school
28 district, a county superintendent of schools, and a
29 regional occupational center or program established
30 pursuant to Article 1 (commencing with Section 6500) of
31 Chapter 5 of Division 7 of Title 1, with respect to
32 employees eligible for membership in the State Teachers'
33 Retirement System.

34 This section shall become inoperative on July 1, 2004,
35 and, as of January 1, 2005, is repealed, unless a later
36 enacted statute, which becomes effective on or before
37 January 1, 2005, deletes or extends the dates on which it
38 becomes inoperative and is repealed.

39 SEC. 62. Section 22009.1 of the Government Code is
40 amended to read:

1 22009.1. "Retirement system" includes:

2 (a) A pension, annuity, retirement or similar fund or
3 system established by a public agency and covering only
4 positions of that agency.

5 (b) The Public Employees' Retirement System with
6 respect only to employees of the state and employees of
7 the University of California in positions covered by that
8 system.

9 (c) The Public Employees' Retirement System with
10 respect to employees of all school districts in positions
11 covered under each contract entered into by a county
12 superintendent of schools and the system.

13 (d) The State Teachers' Retirement System with
14 respect to all employees in positions ~~covered by that~~
15 *subject to coverage under the Defined Benefit Program*
16 system except employees of a public agency having any
17 employees in positions covered by such system who are
18 also in positions covered by a local retirement system for
19 the retirement of teachers, or for membership in which
20 public school teachers are eligible, operated by city, city
21 and county, county or other public agency or
22 combination of public agencies of the state.

23 (e) The Legislators' Retirement System with respect
24 to all employees in positions covered by that system.

25 (f) The Judges' Retirement System with respect to all
26 employees in positions covered by that system.

27 (g) The University of California Retirement System
28 only with respect to all employees in positions covered by
29 that system.

30 (h) The San Francisco City and County Employees'
31 Retirement System with respect to all employees in
32 positions covered by that system.

33 (i) Any other retirement system with respect only to
34 employees of any two or more of the public agencies
35 having employees in positions covered by such system, as
36 designated by the board and with regard to which the
37 board authorizes conduct of a referendum.

38 (j) Any retirement system with respect only to
39 employees of a hospital which is an integral part of a city
40 incorporated between January 15, 1898 and July 15, 1898

1 in positions covered by the system, as designated by the
2 board on request of the city.

3 (k) Except as otherwise provided in subdivisions (b)
4 through (j) above, any retirement system with respect to
5 employees of each of the public agencies having
6 employees in positions covered by the system.

7 (l) Each division or part of a retirement system, as
8 defined in subdivisions (a), (b), (c), (e), (g), (h), (i), (j),
9 (k), and (m) of this section, which is divided pursuant to
10 this chapter into two parts:

11 (1) The part composed of the positions of members of
12 such system who desire coverage under the federal
13 system.

14 (2) The part composed of the positions of members of
15 such system who do not desire coverage under the federal
16 system.

17 (m) The State Teachers' Retirement System with
18 respect to all employees of each public agency, as defined
19 by Section 22009.03, in positions covered by that system.
20 This subdivision shall become inoperative on July 1, 2004.

21 ~~SEC. 63.~~

22 *SEC. 324.* Section 22156 of the Government Code is
23 amended to read:

24 22156. (a) A division of the State Teachers'
25 Retirement System is hereby authorized by the
26 Legislature to provide Medicare coverage for employees
27 of a public agency as defined in Section 22009.03, upon the
28 request of the public agency.

29 (b) The division authorized by subdivision (a) shall be
30 conducted pursuant to this article.

31 (c) A member of the State Teachers' Retirement
32 System on whose behalf a request is made pursuant to
33 subdivision (a), may elect to be covered by Medicare,
34 pursuant to Section 218 of the federal Social Security Act
35 (42 U.S.C. Sec. 418), and applicable federal regulations if

36 (1) the member was employed in a position covered by
37 the system on March 31, 1986, and (2) the member has not
38 since been mandated into Medicare coverage due to the
39 enactment of Public Law 99-272, and (3) the member is
40 in a position covered or the member is eligible to elect to

1 be covered by the retirement system on the date of the
2 division.

3 (d) The public agency shall, immediately after the
4 elections authorized in subdivision (b) have been made,
5 make application pursuant to Chapter 2 (commencing
6 with Section 22200) of this part for Medicare coverage for
7 those members who have elected to receive Medicare
8 coverage.

9 (e) The effective date of the coverage may be
10 retroactive a maximum of five years but not earlier than
11 January 1, 1987.

12 (f) This section shall become inoperative on July 1,
13 2004, and, as of January 1, 2005, is repealed, unless a later
14 enacted statute, which becomes effective on or before
15 January 1, 2005, deletes or extends the dates on which it
16 becomes inoperative and is repealed.

17 ~~SEC. 64.~~

18 *SEC. 325.* Section 22208 of the Government Code is
19 amended to read:

20 22208. With respect to each retirement system
21 coverage group, the legislative or governing body of
22 every public agency having employees in positions
23 covered by a retirement system, may, upon the
24 affirmative vote of a majority of eligible retirement
25 system employees of the retirement system coverage
26 group at a referendum conducted in accordance with
27 Article 2 (commencing with Section 22300) of this
28 chapter and the rules and regulations promulgated by the
29 board pursuant to this part, make formal application to
30 the board for the inclusion of the employees in each
31 retirement system coverage group in the agreement.
32 With respect to employees in positions covered by the
33 retirement system set forth in subdivision (d) of Section
34 22009.1, the formal application shall be deemed to be
35 made, if made prior to July 1, 2004, by the legislative or
36 governing body of a public agency as defined in Section
37 22009.03, or if on or after July 1, 2004, by the Teachers'
38 Retirement Board.

39 ~~SEC. 65.~~

1 SEC. 326. Section 22302 of the Government Code is
2 amended to read:

3 22302. In the case of employees in positions covered
4 by the retirement system set forth in subdivision (d) of
5 Section 22009.1, if prior to July 1, 2004, the legislative or
6 governing body of a public agency as defined in Section
7 22009.03, or if on or after July 1, 2004, the Teachers'
8 Retirement Board shall conduct the referendum; if the
9 referendum is authorized by the Legislature.

10 In the case of employees in positions covered by the
11 retirement system set forth in subdivision (g) of Section
12 22009.1 the board shall authorize the referendum upon
13 the request of the regents of the University of California
14 and the regents shall conduct the referendum.

15 SEC. 327. *Sections 56, 57, 58, 256, 263, 266, 312, and 319*
16 *of this act shall not become operative if SB 2085 of the*
17 *1997–98 Regular Session is enacted prior to this act and*
18 *amends Sections 22601.5, 22602, 22604, 26301, 26401, 26504,*
19 *27410, and 28100 of the Education Code, in which case*
20 *Sections 11, 12, 13, 40, 42, 43, 50, 51, 64, and 66 of SB 2085*
21 *of the 1997–98 Regular Session shall be given effect and*
22 *Sections 56, 57, 58, 256, 263, 266, 312, and 319 of this act*
23 *shall be repealed on January 1, 1999.*

